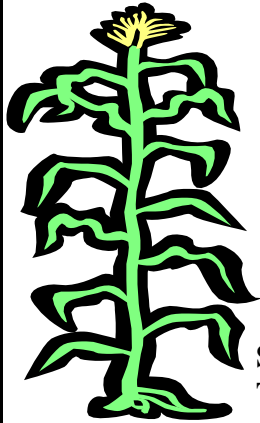


LOUISIANA SENATE

**2016**  
**FINAL EDITION**  
*of*  
**Legislative Sessions**  
**Highlights**



## Agriculture/Rural Development



by: Curry Lann  
(225) 342-0645

### 2016 Regular Session

#### ANIMALS

**Senate Bill 216 by Senator Troy Carter (Act 381)** requires the Louisiana Animal

Welfare Commission to establish and maintain the voluntary Louisiana Animal Shelter Registry. The legislation authorizes each parish governing authority to submit a list of all public animal shelters located within the parish's jurisdiction.

#### BOARDS AND COMMISSIONS

**House Bill 251 by Representative Chaney (Act 42)** increases the membership of the soil and water conservation commission by adding the chancellor of the Southern University Agricultural Center to the membership. The legislation also specifies that the commission's complete audit must be done in accordance with the powers and duties of the legislative auditor.

**House Bill 332 by Representative Montoucet (Act 219)** reduces the membership of the Louisiana Crawfish Promotion and Research Board due to quorum concerns and authorizes the commissioner of agriculture and forestry to appoint a member from the state-at-large if no member north of U.S. Highway 190 is available.

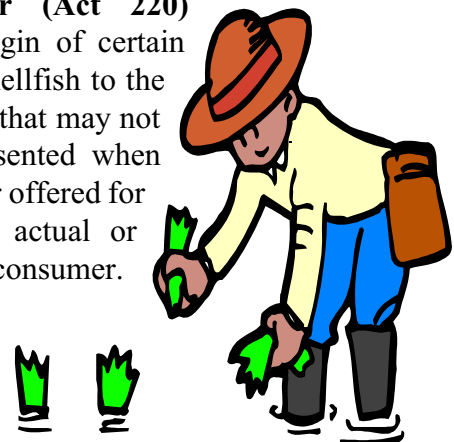
**House Bill 592 by Representative Anders (Act 12)** establishes guidelines for the Louisiana Agricultural Commodities Commission to follow when paying claims based on security and provisional stock insurance, self-insurance funds, and grain and cotton indemnity funds.

#### DEPARTMENT OF AGRICULTURE AND FORESTRY

**Senate Bill 74 by Senator Thompson (Act 329)** authorizes the Department of Agriculture and Forestry to develop and adopt an official logo for products grown or manufactured in Louisiana and agricultural related activities conducted in Louisiana. The legislation further authorizes the commissioner of agriculture and forestry to impose a civil penalty of up to five hundred dollars for violations.

**House Bill 336 by Representative Schexnayder (Act 220)**

adds the origin of certain foods and shellfish to the list of items that may not be misrepresented when being sold or offered for sale to any actual or prospective consumer.



**Senate Bill 382 by Senator Thompson (Act 392)** grants the commissioner of agriculture and forestry exclusive jurisdiction and authority over all matters related to the regulation of seeds. The legislation prohibits municipalities, parishes, local governmental entities, or governing authorities of any public or private group or association having jurisdiction over a specific geographic area from enacting ordinances, subdivision restrictions, or regulations affecting the registration, distribution, sale, or planting of seeds.

**House Bill 524 by Representative Robby Carter (Act 53)** provides a penalty of up to \$5,000 for any dealer, distributor, or importer that willfully and knowingly fails to provide required records of petroleum products received, used, sold, or delivered within Louisiana.

**House Bill 867 by Representative Leopold (Act 70)** authorizes the Department of Agriculture and Forestry to place advertising signs on property owned by the department. The legislation requires the department to establish fees and rules to implement the provisions allowing advertising signs on property owned by the department.

**House Bill 1099 by Representative Thibaut (Act 567)** establishes an annual license fee of \$100,000 for the license to produce marijuana for therapeutic use, an annual permit fee of \$100 for administrative and inspection costs, and a nonrefundable application fee of \$10,000. The legislation mandates that the Department of Agriculture and Forestry receive an amount not to exceed seven percent of the gross sales of therapeutic marijuana. The legislation requires the department to collect all fees associated with the license and

use the fees collected to fund expenses relating to the regulation and control of prescribed marijuana for therapeutic use.

## FARM TO SCHOOL

**Senate Bill 420 by Senator Thompson (Act 404)** requires the State Board of Elementary and Secondary Education, in collaboration with the Department of Agriculture and Forestry, to develop and implement a farm to school program. The legislation requires the departments to collaboratively:

- (1) Provide an inventory of farming operations throughout the state.
- (2) Provide guidance to local schools to develop relationships with local farmers.
- (3) Encourage schools and school districts to include local farmers, food processors, and suppliers when procuring food products.
- (4) Disseminate specific farm to school procurement guidelines.
- (5) Disseminate information to school districts regarding the proper equipment required to prepare fresh food onsite.
- (6) Create a plan to integrate classroom and hands-on activities into the school curricula.
- (7) Develop a Louisiana Farm to School Handbook.

Implementation of the program is subject to the appropriation of funds by the legislature or the availability of any other federal funding, grants, gifts, or public or private donations.

**INDUSTRIAL HEMP**

**House Bill 1085** by **Representative Montoucet (Pending Senate Committee on Agriculture, Forestry, Aquaculture, and Rural Development)** would have authorized state institutions of higher learning to develop pilot programs to study the growth, cultivation, or marketing of industrial hemp for agricultural or academic research.

**REFERENDUMS**

**House Bill 516** by **Representative Anders (Act 9)** provides for the removal of referendum criteria from the Louisiana Aquatic Chelonian Research and Promotion Board and any references to the referendum criteria. The legislation also reduces the membership of the board due to quorum concerns.

**House Bill 523** by **Representative Robby Carter (Act 10)** provides for the removal of referendum criteria from the Dairy Industry Promotion Board and any references to the referendum criteria.

**UNMANNED AERIAL SYSTEMS**

**House Bill 335** by **Representative Schexnayder (Act 545)** authorizes the commissioner of agriculture and forestry to establish, by rule, a registration fee for unmanned aerial systems not to exceed \$100. The legislation further authorizes the commissioner to establish an agricultural education and safety training course fee not to exceed \$50, payable to the Louisiana State University Agricultural Center or the Southern University Agricultural Research and Extension Center.

## Capital Outlay

by: *Martha Hess*  
(225) 342-8893

### 2016 Regular Session

**House Bill 2 by Representative Abramson (Pending House Concurrence)**, would have provided for the comprehensive capital outlay budget for Fiscal Year 2016-2017; however, the House did not concur in nor reject the Senate amendments.

### 2016 Second Extraordinary Session

**House Bill 2 by Representative Abramson**, provides for the comprehensive capital outlay budget for Fiscal Year 2016-2017, including funding from the following sources of monies:

Federal Funds (excluding TTF - Federal Funds)	\$	133,062,470
Transportation Trust Fund (TTF) - Federal Funds	\$	546,016,024
Transportation Trust Fund (TTF) - Regular	\$	166,879,446
Coastal Protection and Restoration Fund	\$	99,549,911
Fees and Self-Generated Revenues	\$	71,615,000
Interagency Transfers	\$	199,673,500
Miscellaneous Statutory Dedications	\$	105,736,951
Reappropriated Cash	\$	9,572,970
Revenue Bonds	\$	<u>282,561,400</u>
<b>TOTAL CASH PORTION</b>	<b>\$</b>	<b>1,614,667,672</b>

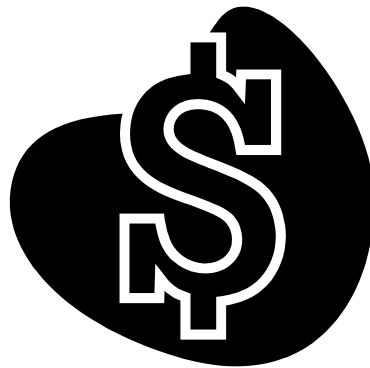
Authorizes the funding of certain capital outlay projects from the sale of general obligation bonds for the projects delineated below; these numbers include gubernatorial vetoes of projects and the Office of Facility Planning's determination that other projects which had untimely filed capital outlay requests that did not receive late approval, were null. The remaining projects total:

Priority 1	\$	1,344,156,405
Priority 2	\$	213,968,700
Priority 3	\$	0
Priority 4	\$	0
Priority 5	\$	1,169,427,867

TOTAL GENERAL OBLIGATION BONDS	\$	2,727,552,972
BONDS NRP	\$	<u>12,187,520</u>
<b>GRAND TOTAL ALL MEANS OF FINANCING</b>	<b>\$</b>	<b><u>4,354,408,164</u></b>

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

*Section 16 of the Act limits cash lines of credit or the authorization of the issuance of general obligation bonds to \$1,555,430,000.*



## Children, Women & Family

by: James Benton  
(225) 342-0597

This year the legislature of Louisiana underwent three sessions (two special and one regular). In 2016, the state of Louisiana witnesses a budget crisis that put several critical services and entities in jeopardy. However, the legislature did not lose sight of other important issues facing the citizens of our great state. Issues involving children, women and family are as critical as they have ever been in our state's history. The progress we made over the past year is commendable and necessary. Here is a brief overview of some of the legislation that was introduced. Due to the budget crisis in the state the bulk of the legislation affecting children, women and family were introduced during the regular session, as the two special session were confined to revenue raising and matters concerning appropriation.

### **2016 First Extraordinary Session:**

No major legislation introduced affecting children, women, and family.

### **2016 Regular Session:**

#### **CHILDREN**

**Senate Bill 301 by Senator Morrell (Act 499)** creates the Juvenile Justice Accountability and Cost Effectiveness Act of 2016. Provides for the electronic systems to compile statistical data to assist in the determination

of levels of accountability, cost effectiveness, and reinvestment in the juvenile justice system. Requires the office of juvenile justice to collect, maintain, and regularly report a record of statistical data concerning the services it provides, the youth it serves, the outcomes experienced, and the funds expended. Provides for publication of reports and the types of data to be collected. Requires first report to be published electronically no later than January 15, 2018. Requires data to be published statistically without any identifying information.

**Senate Bill 302 by Senator Morrell (Act 617)** provides that the records of a child in the custody of the office of juvenile justice must be provided to the child's counsel or legal guardian upon the request of the office of juvenile justice. Further provides that representation by a public defender shall

create an assumption of indigence and the records are to be furnished at no cost to the child, the child's family, legal guardian, or counsel. Provides a list of parties that the court may authorize the release of records and reports on a child when it is relevant and necessary to the performance of duties or enhances services to a child or his family. Adds the district public



defender, district public defender's representative, or the representative of a public defender program to the list of individuals be authorized to receive records and reports in individual cases. Allows an institution or agency to request from the court any information on a child to which it is assigned if the information is concerning the condition, supervision, treatment, or rehabilitation program of the child. Provides that if an institution or agency receives any information regarding a child to which it is assigned, the state and counsel for the child shall also receive the information. Requires an agency or person to which a child is assigned to report to the judge not less than once every six months on the whereabouts and condition of the child. Requires an agency or institution to which a child is assigned to also send its report on the whereabouts and condition of the child to the child's counsel. Further requires an institution, agency, or person to which a child is assigned to send a report in writing regarding the whereabouts and condition of the child to the court and child's counsel not less than 72 hours before any in-court hearing. Provides that if a child is indigent all information and reports regarding the child's whereabouts and condition shall be furnished at no cost to the child, his family, or counsel. Further creates an irrebuttable presumption of indigence if the child is represented by a public defender. Requires review of a child's record after the first 60 days, after 120 days, and every 180 days after the child's commitment to a mental institution for being found not guilty by reason of insanity or after a court determines that the child lacks mental capacity to proceed to determine if the child is able to be discharged, placed on probation, or capable of proceeding.

Requires the department provide to each child and his counsel a complete copy of all records regarding the child's condition, supervision, treatment, rehabilitation program, education, health, discipline, and transition planning before or at the time of the child's release. Provides that all records shall be furnished at no cost to the child if the child, child's family, legal guardian, or counsel is deemed indigent and representation by a public defender creates an irrebuttable presumption of indigence.

**Senate Bill 303 by Senator Morrell (Act 500)** provides DPSC sole authority over the placement, care, treatment, or other considerations necessary for children judicially committed to DPSC. Clarifies that the authority is with the office of juvenile justice within DPSC and makes an exception for educational services as provided in proposed law. Adds "office of juvenile justice schools" to the state and district accountability program and all programs providing educational services to students in secure care of DPSC. Requires, not later than July 1, 2016, BESE to convene a mutual accountability team to draft and propose to BESE a specialized accountability program for office of juvenile justice schools. Requires the mutual accountability team to have recommendations on the accountability program to BESE no later than March 1, 2017.

**Senate Bill 324 by Senator Morrell (Act 501)** allows the court discretion as to whether to transfer the child to an adult facility for detention prior to trial as an adult. However, provides that a child who is subject to criminal jurisdiction as an adult shall not be detained prior to trial in a juvenile detention facility after reaching the age of 18 if the governing authority with funding



responsibility for the juvenile detention facility objects to the detention, unless the judge with the criminal jurisdiction orders the child to be detained in the juvenile detention facility.

## WOMEN

**Senate Concurrent Resolution 58 by Senator Colomb (Sent to the Secretary of State)** recognizes April 12 as "Equal Pay Day" in the state of Louisiana

**Senate Bill 320 by Senator Morrell (Act 387)** amends prior law which required courts, when possible, to provide a secure waiting area during court proceedings for victims, witnesses, or homicide victim's families that does not require them to be in close proximity to the defendants, or their families or friends. Provides a court must without exception provide a secure waiting area in cases involving violent crimes. Retains current law and provides that upon request of a party and if possible, the court must also provide designated seating in a courtroom for victims, victims' family, and witnesses that does not require them to be in close proximity to defendants, defendants' family, or witnesses for the defendant.

**Senate Bill 332 by Senator Morrell (Subject to call)** would have provided with respect to discrimination in various provisions of law. In general, would have added sexual orientation and gender identity or expression in provisions prohibiting or describing discrimination. Also would have added age, sex, or disability in a number of such provisions. Would have added definitions of "sexual orientation" and "gender identity or expression" for purposes of the Louisiana Employment Discrimination Law and

provisions for unlawful discrimination in employment. Defines "sexual orientation" as an individual's actual or perceived heterosexuality, homosexuality, or bisexuality. Would have defined "gender identity or expression" as a gender-related identity, appearance, expression, or behavior of a person, regardless of the person's assigned sex at birth.

**Senate Bill 436 by Senator Carter (Subject to call)** would have provided that it is unlawful for any employer to refuse to hire, discharge, or otherwise discriminate with respect to compensation, terms, conditions of employment, segregate, limit, or classify his employees or applicants for employment due to an individual's actual or perceived sexual orientation, gender identity, or gender expression.

## FAMILY

**Senate Bill 306 by Troy Carter (Pending Senate Judiciary A)** Existing law provides that in a proceeding in which joint custody is decreed, the court shall render a joint custody implementation order except for good cause shown. Existing law also provides that the implementation order shall allocate the time periods during which each parent shall have physical custody of the child so that the child is assured of frequent and continuing contact with both parents. Proposed law would have attempted to provide that physical custody of children shall be shared equally and provides that the court shall consider all relevant factors in determining the child's best interest as provided in existing law.

**Senate Bill 313 by Senator Barrow (Act 313)** provides that the Council on the Status of Grandparents Raising Grandchildren is

placed within the Department of Children and Family Services and provides for its membership, responsibilities and duties, and its fund. Provides for the council's membership, responsibilities and duties, and its fund.

**Senate Bill 368 by Senator Morrish (Act 175)** permits a grandparent or step grandparent to adopt a child when certain other requirements are met, and the petitioner is a single person over the age of eighteen or a married person whose spouse is a joint petitioner. Provides that, when a petitioner is the grandparent of a child and the petitioner's spouse is the step grandparent of the child and that spouse files an authentic act requesting that the blood relative grandparent petitioner be allowed to file or complete the adoption proceedings as the sole petitioner, then any court of competent jurisdiction may grant the adoption in the same manner as if the grandparent was a single petitioner. Requires any petitioner and step grandparent filing a petition to undergo the background check provided for in current law.

***2016 Second Extraordinary Session:***

No major legislation introduced affecting children, women, and family.

## Civil Law & Procedure

by: Ben Huxen  
(225) 342-9675

### 2016 Regular Session

**House Bill 150 by Representative Talbot (Act 495)** provides that children conceived through donated gametes shall not inherit nor be forced heirs of the individual donors, unless the donor would be a person from whom the child could inherit under existing law notwithstanding the in vitro fertilization process.

**House Bill 212 by Representative Davis (Act 102)** requires employers to notify the Dept. of Children and Family Services of pending lump-sum payments to employees who owe support if that lump-sum payment is \$300 or more.

**House Bill 285 by Representative Garofalo (Act 132)**, regarding civil procedure, in part, extends the time period within which to respond to discovery requests from 15 to 30 days.

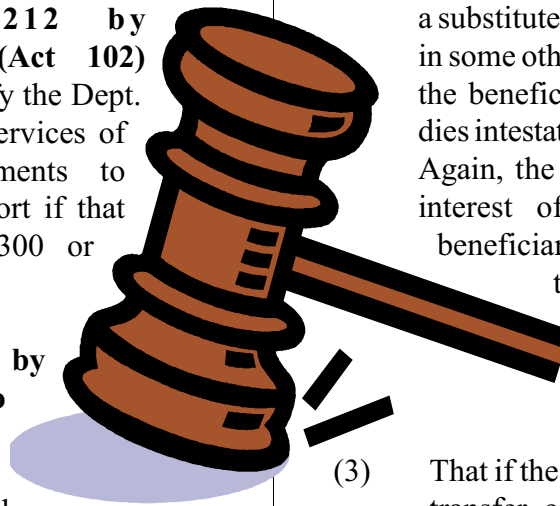
**House Bill 286 by Representative Garofalo (Act 544)**, regarding trusts, provides for the following:

(1) Expand the definition of "person" in the Louisiana Trust Code to include a limited liability company.

(2) That, that except for the legitimate in trust, the trust may provide that the interest of either an original or substitute principal beneficiary vests in one or more of his descendants upon the death of the beneficiary. If the beneficiary has no descendants, the trust may provide that the interest vests in some other person. For the legitimate in trust, the trust may provide that the interest of either an original or a substitute principal beneficiary vests in some other person upon the death of the beneficiary, only if a beneficiary dies intestate and without descendants. Again, the trust can provide that the interest of a designated principal beneficiary or a revocable trust shifts to another person if the substitution occurs prior to the time the trust becomes irrevocable.

(3) That if the trust instrument contains a transfer of immovable property or other property that has a title that must be recorded in order to affect third persons, a trustee shall file the trust instrument in the parish where each property is located.

(4) That, if the trust instrument contains a transfer of immovable property or other property that has a title that must be recorded to affect third persons, a trustee shall file the trust instrument in



the parish where each property is located.

**House Bill 289 by Representative Garofalo (Act 89)** provides that a corporation's juridical personality will continue after the corporation terminates for purposes of disposing of immovable property owned by the corporation pursuant to a resolution of the board of directors.

**House Bill 330 by Representative Gregory Miller (Act 218)**, regarding child support, creates a rebuttable presumption that, when there is no evidence of a party's actual income or earning potential, the party can earn a weekly gross amount equal to 32 hours at minimum wage.

**House Bill 331 by Representative Gregory Miller (Act 109)** eliminates current law that provides that filing shall be deemed complete at the time the facsimile transmission is received and a receipt of transmission has been transmitted to the sender by the clerk of court. The Act provides that no later than on the first business day after receiving a facsimile filing, the clerk of court shall transmit to the filing party via facsimile a confirmation of receipt and include a statement of the fees for the facsimile filing and filing the original document. The facsimile filing fee and transmission fee are incurred upon receipt of the facsimile filing by the clerk of court, which shall have the same force and effect as filing the original document only if the filing party subsequently files the identical original documents within seven days and pays the required fees.

**House Bill 350 by Representative Hilferty (Act 110)** specifies that a mandatory or curator generally may not prevent or limit

reasonable communication, visitation, or interaction between a principal or interdict who is over the age of 18 years and another person, including relatives by blood, adoption, or affinity within the third degree or other individuals who have a relationship with the principal based on or productive of strong affection, without prior court approval and only upon a showing of good cause.

**House Bill 388 by Representative Jefferson (Act 309)** provides for the time period for disavowal of paternity and changes the commencement of the prescription from the day the husband learns or should have learned of the birth of the child to the birth of the child or the day the husband knew or should have known that he may not be the biological father of the child, whichever occurs later.

**House Bill 933 by Representative Miller (Act 602)** amends the state's child support guideline schedule to reflect the most recent economic estimates of child rearing expenditures as a portion of household consumption. It raises the ceiling from \$30,000 to \$40,000 for combined adjusted monthly gross income when calculating the basic child support obligation.

**House Bill 1135 by Representative Moreno (Act 608)** expands the grounds for termination of parental rights to include situations where a parent has been convicted of or has committed a sex offense. It also allows a custodial parent to petition for the termination of parental rights when that parent is the victim of a sex offense at the hands of the other parent. The victim will not be required to pay any costs resulting from the petition to terminate rights.

**Senate Bill 203 by Senator Ward (Act 204)** allows an aggrieved party, the attorney general, the La. State Bar Association, or any district attorney to file a petition to enjoin an actor from engaging in the unauthorized practice of law. It also authorizes any aggrieved party to sue an actor who is engaging in or has engaged in the unauthorized practice of law for general damages, special damages, and all other damages suffered by the aggrieved party and the award of costs and attorney's fees to the petitioner and a prescriptive period of one year from the date of the unauthorized practice of law or its discovery. The act requires that an action be filed within three years from the date of the act constituting the unauthorized practice of law.

**Senate Bill 368 by Senator Morrish (Act 175)**, regarding intrafamily adoptions, provides that, when a petitioner is the grandparent of a child and the petitioner's spouse is the stepgrandparent of the child and that spouse files an authentic act requesting that the blood relative grandparent petitioner be allowed to file or complete the adoption proceedings as the sole petitioner, then any court of competent jurisdiction may grant the adoption in the same manner as if the grandparent was a single petitioner. The petitioner and stepgrandparent must undergo background checks.

**Senate Bill 395 by Senator Ward (Act 536)** requires all meetings of the Louisiana State Law Institute to be subject to the Open Meetings Law and the Public Records Law and to be held at a meeting space located in a public building and open to the public for the purposes of the meeting. At least a majority of such meetings for the year shall be held in Baton Rouge.

**Senate Bill 404 by Senator Peacock (Act 179)** requires certain disclosures in sales of mineral rights solicited by mail and provides a rescission remedy.



## Coastal Restoration

by: Jerry Jones  
(225) 342-1769

### 2016 First Extraordinary Session

**Senate Concurrent Resolution 4 by Senator Claitor (Sent to Secretary of State)** memorializes Congress to extend Louisiana's seaward boundary in the Gulf of Mexico to three marine leagues.

**Senate Concurrent Resolution 7 by Senator Chabert (Sent to Secretary of State)** memorializes Congress to maintain the Outer Continental Shelf revenue sharing arrangement passed under the Gulf of Mexico Energy Security Act of 2006.

### 2016 Regular Session

**House Concurrent Resolution 2 by Representative Bishop (Sent to Secretary of State)** approves the CPRA annual integrated coastal protection and restoration plan for Fiscal Year 2017.

**Senate Concurrent Resolution 2 by Senator Ward (Sent to Secretary of State)** approves the Atchafalaya Basin Annual Plan for Fiscal Year 2016-2017.

**Senate Bill 201 by Senator Allain (Act 681)** proposes a constitutional amendment relative to eliminating deficits that contains an exception for monies in the Coastal Protection

and Restoration Fund as set forth in Article VII, §10.2.

**Senate Bill 391 by Senator Erdey (Act 393)** adds the Livingston Parish President as a member of the Coastal Louisiana Levee Consortium.

**Senate Concurrent Resolution 29 by Senator Chabert (Sent to Secretary of State)** requests the Coastal Protection and Restoration Financing Corporation to study the feasibility of employing financing techniques to convert future BP settlement payments into current assets to be deposited and credited to the Coastal Protection and Restoration Fund.

**Senate Concurrent Resolution 114 by Senator Morrish (Sent to Secretary of State)** expresses legislative support of the Land and Water Conservation Fund.

**Senate Resolution 116 by Senator Hewitt (Sent to Secretary of State)** requests the U.S. Bureau of Ocean Energy Management to maintain region-wide leasing in the Gulf of Mexico in the 2017-2022 OCS Oil and Gas Leasing Program without further exclusions or restrictions.

**Senate Resolution 167 by Senator Brown (Sent to Secretary of State)** requests the governing authority of each port and the governing authority of each levee district to meet with area senators regarding its contract

or direct hire employee statistics and professional, personal, and consulting contracts.

**House Bill 603 by Representative Leger (Act 679)** proposes a constitutional amendment creating the Revenue Stabilization Trust Fund, and providing for dedications of certain mineral revenues.

**House Bill 640 by Representative Leger (Act 362)** authorizes the Coastal Protection and Restoration Authority Board to establish a natural resource damages restoration banking program as an alternative method to offset injuries to natural resources sustained as a result of oil spills in coastal areas, and also to adopt rules establishing a compensation schedule for the unauthorized discharge of oil in coastal areas.

**House Bill 1087 by Representative Gregory Miller (Act 459)** provides relative to the Lafourche Basin Levee District and entities that may be called upon to cooperate and assist with certain hurricane protection projects.

**House Bill 1149 by Representative Leger (Act 572)** provides relative to board members, and powers and duties, of the Southeast Louisiana Flood Protection Authority-East and Southeast Louisiana Flood Protection Authority-West Bank.

**House Bill 1044 by Representatives Zeringue and Anders (Act 373)** provides an exception to the prohibition upon closed specifications of a product used in the construction of a public building or project when such product is required as part of an integrated coastal protection project for the evaluation of new and improved integrated

coastal protection technologies.

**House Resolution 139 by Representative Coussan (Sent to Secretary of State)** requests the U.S. Bureau of Ocean Energy Management to maintain region-wide leasing in the Gulf of Mexico in the 2017-2022 OCS Oil and Gas Leasing Program.

**House Resolution 197 by Representative Zeringue (Sent to Secretary of State)** requests CPRA to study multi-jurisdictional funding of flood protection projects.

#### 2016 Second Extraordinary Session

Limited to tax matters and no instruments concerning substantive coastal restoration and protection law.

#### BP Settlement Monies

In 2010, what has been called the worst environmental disaster in U.S. history occurred when one of BP's deep-sea wells blew out off the coast of Louisiana. The blow out killed eleven rig workers and led to the sinking of the Deepwater Horizon drilling rig. For about 87 days, millions of gallons of oil spilled into the Gulf. After years of cleanup, investigation and litigation, settlement agreements resolving a majority of claims by federal, state and local governmental entities, companies, and individuals were reached. Over a 15 year period, Louisiana will receive up to one billion dollars as economic damages compensation from BP, with the first payment of \$200 million scheduled for July 1. This is separate from another settlement for environmental penalties that could result in Louisiana receiving a minimum of \$5 to 6 billion for natural resource damages, which includes \$368 million previously allocated for

early restoration projects and at least \$787 million for Clean Water Act civil penalties (subject to the RESTORE Act). On July 15, BP estimated that the total cost to the company for the 2010 Deepwater Horizon oil spill would be about \$61.6 billion.



## Commerce & Consumer Protection

by: Mary O'Brien  
(225) 342-2115

### 2016 Regular Session

In a year when the legislature, the governor, and the commissioner of administration are all focused on crafting a balanced budget despite the projected six hundred million dollar shortfall for the 2016-2017 FY, legislation requiring expenditures was not likely to garner the necessary support to be enacted. As a consequence, nearly all legislation attempted either to cost no money, in terms of general fund dollars, or to contain provisions that would make the legislation self-funding. A dual referral to the Senate Committee on Finance in this session, generally, translated into the bill being held in committee without action sending it to the Senate floor for debate. As a consequence, the volume of proposed legislation was down and the subject matter concentrated on issues that would contain no need for state funding.

Beyond the obvious financial issues, the range of topics that were considered by the Senate Committee on Commerce, Consumer Protection, and International Affairs was varied.

### BANKS/BANKING

The regulation of banks and the process of banking received less attention than is usual in the first non-fiscal session of a new term,

however, some topics were discussed. **Senate Bill 144 by Senator Martiny (Act 74)** provides that any state bank holding immovable property as an asset that is subject to the ten-year divestiture period shall include such property on the books of the bank in accordance with generally accepted accounting principles (GAAP).

Another banking provision enacted was **House Bill 346 by Representative Carmody (Act 48)** that expands the exemptions to consumer loan licensing requirements to include a savings bank chartered by the United States, the state of Louisiana or any other state of the United States, or by the District of Columbia and any subsidiary of a federally chartered entity in which the entity owns a minimum of eighty percent of the subsidiary. Thus all of these entities would be exempt from the consumer loan licensing requirements.

With regard to distributions of sums held in a bank that are to be made upon the death of the depositor, **Senate Bill 126 by Senator Martiny (Act 166)** allows such distributions only when such instructions are made by authentic act, under private signature, executed in the presence of one officer or branch manager of the depository bank and two additional persons as witnesses.



## CREDIT UNIONS, LOANS AND FINANCIAL INSTITUTIONS

Minimal changes in the regulation of credit unions, certain small financial institutions and small loans were included in this regular session. **Senate Bill 108 by Senator Thompson (Act 200)** deals with the option of the borrower to request an extended payment plan for repayment of a deferred presentment transaction or a small loan. The licensee shall include a statement to the borrower setting out this repayment option and adds that an extended payment request shall be made in writing and may be made in person, by email or by facsimile.

Exemptions of a person named a "person in control" in an approved check or money transmitter application is repealed by **Senate Bill 145 by Senator Martiny (Act 75)**, thus requiring any person in control to first give notice to the commissioner of financial institutions of the proposed transaction and obtain approval of the commissioner for the transaction. (Sale of Checks and Money Transmission Act)

As to credit unions, **House Bill 724 by Representative Price (Act 64)** removes the provision that depositors shall indicate, by authentic act, how sums are to be distributed upon the death of the depositor. Rather, such beneficiaries shall be specifically named in the account records of the credit union.

Finally, **House Bill 681 by Representative Price (Act 257)** provides that credit unions may, under certain circumstances, offer their members savings promotion raffles.

## PUBLIC SERVICE COMMISSION/ PUBLIC UTILITIES

The topics of the Public Service Commission and the regulation of utilities merited the attention of the committee. Several suggested bills appeared to be aimed at encouraging the Commission to take action in specific areas. The following legislation has become law.

**House Bill 310 by Representative Connick (Act 135)** requires the Public Service Commission (PSC) to audit adjustment clause filings not less often than once every other year, review the audit findings and modify fuel adjustment charges, when appropriate, by way of the utility's fuel adjustment clause.

The ability of the PSC to charge fees and the amount of those fees are the subject of **House Bill 431 by Representative Carmody (Act 433)**. Inspection and supervision fee increases were provided for common and contract motor carriers and public utilities and are effective on July 1, 2016.

The definitions of the terms "excavate" or "excavation" are addressed in **House Bill 250 by Representative Carmody (Act 245)**. Memorial Day and Christmas Eve are added to the enumeration of recognized holidays to be observed by regional notification centers. Exceptions to the definitions of "excavate" and "excavation" are those occurrences described to be a consequence of any force majeure, act of God, or act of nature.

The nonexclusive list of requirements imposed regarding the certification of regional notification centers was expanded by **House Bill 249 by Representative Carmody (Act 85)**, adding geopolitical service areas that are coterminous with parish boundaries to the list

of areas included in notifications.

An entire chapter was added to provide with respect to nonprofit water utility cooperatives in **House Bill 729 by Representative Montoucet (Act 444)**. The chapter includes definitions, rate changes, and regulations for such cooperatives, as well as limiting the application to only water cooperatives that were eligible to receive financing from the United States Department of Agriculture prior to January 1, 2011, regardless of whether such financing was obtained.

### COMMERCIAL REGULATION

The regulation of self-service storage facilities was the subject of **Senate Bill 128 by Senator Martiny (Act 167)**, which amended definitions relative to mailing and electronic mailing of notices to lessees. Also addressed were the imposition of a reasonable late fee and liens applicable to the contents of a leased unit. Finally, the legislation provided that the lessor shall not be liable for any claims in excess of any stated value by the lessee, if the lease agreement includes a limit on property value.

**Senate Bill 58 by Senator Martiny (Act 327)** repealed provisions requiring that home service contracts providers provide (1) an annual financial statement proving solvency and (2) an additional report requiring specific information from the previous calendar year.

Home service contract providers are the subject of **House Bill 208 by Representative Stuart Bishop (Act 243)** and requires that the term of the surety bond required of such a provider shall coincide with the two-year period of registration of the home service contract.

**Senate Bill 251 by Senator LaFleur (Act 532)** prohibits the blocking of the lawful creation of a Wi-Fi network by way of a personal hotspot. A civil fine is provided for in the legislation.

The sunset date for the Louisiana Scrap metal Recyclers Law was repealed by **House Bill 209 by Representative Chad Brown (Act 412)**, allowing the recyclers law to remain in effect.

Judicial Review of decisions by the Louisiana State Board of Dentistry will require the furnishing of security in the amount of any fine assessed by the board, as provided in **House Bill 934 by Representative Hoffman (Act 369)**. Other specifics regarding the furnishing of security are included in this legislation.

**House Bill 806 by Representative Abramson (Act 147)** provides relative to the dissolution of a limited liability company that owns no immovable property, allowing such company to dissolve itself by affidavit.

### LICENSING/FEEES

The enactment of a chapter dealing with motor vehicle rental agreements contained in **House Bill 637 by Representative Stokes (Act 61)**, allows for the imposition of certain fees and a separate listing of such fees in any rental agreement.

**House Bill 252 by Representative Davis (Act 105)** exempts the Louisiana Licensed Professional Counselors Board of Examiners from the provisional licensing of ex-offenders, but does require certain information to be recorded and kept by the licensing board.

## ARCHITECTS/CONTRACTORS

Two pieces of legislation signed by the governor deal with the regulation of architects and firms which seek to practice architecture in Louisiana. **House Bill 472 by Representative Falconer (Act 251)**, allows the Louisiana State Board of Architect Examiners to allocate up to ten percent of all license renewal and delinquency fees each fiscal year to the Louisiana Architecture Education and Research Fund. The purpose of the fund is to support programs that will improve architectural education in the state and facilitate the licensure of architecture student interns, prior to receiving their degree in architecture.

**House Bill 532 by Representative Falconer (Act 255)** authorizes the Louisiana State Board of Architecture Examiners to issue certificates of authority to an entity to practice architecture in Louisiana, caps the fee for such a certificate at no more than \$300, and requires the opportunity for the annual renewal of such certificate.

## BOARDS & COMMISSIONS/ REGULATION OF TRADES

Provisions regarding the Louisiana Board of Examiners for Speech-Language Pathology and Audiology were augmented by **Senate Bill 223 by Senator Claitor (Act 478)**. The board was authorized to obtain criminal history record information, including the applicant's fingerprints. Further provisions require the Board to obtain information from the Louisiana Bureau of Criminal Identification and to request certain information from the Federal Bureau of Investigation.

The Louisiana State Board of Cosmetology was the subject of two bills that passed both houses of the legislature. **Senate Bill 112 by Senator Barrow (Act 611)** applies to "mobile salons" and distinct licensing requirements for those facilities. The Board is also charged with promulgating these rules for mobile salons in accordance with the Administrative Procedure Act. Fees for these facilities are included in the legislation.

**Senate Bill 183 by Senator White (Act 271)** provides clarification of the definitions of "esthetics" and "manager" in the context of the Louisiana Cosmetology Act and requirements for surety bonds.

Plumbers, apprentice plumbers, and master plumbers are all the focus of **Senate Bill 421 by Senator Thompson (Act 515)**. The legislation creates a new licensure category for plumbers between the apprentice and journeyman level called a "tradesman plumber" and provides qualification for such tradesman plumber.

Armed forces personnel who have received military training in engineering and have a military occupation specialty in engineering may apply for state certification as a professional engineer, but must satisfy the board's minimum standards under the provisions of **Senate Bill 283 by Senator Hewitt (Act 616)**.

Real estate appraisers and real estate appraisal management companies and their regulation are the subject of **House Bill 804 by Representative Pugh (Act 259)**. The legislation deals with licensing classifications and requirements, requiring maintenance of an appraisal maintenance log when training an appraiser, and delineates the role of the

Louisiana Real Estate Appraisers Board.

**House Bill 1068 by Representative Lopinto (Act 297)** defines the terms "gas fitters", "gas fitting", and "master gas fitter". All categories are to be regulated by the State Plumbing Board.

### BUSINESS CORPORATION ACT

The Business Corporation Act was the topic of **House Bill 714 by Representative Foil (Act 413)** and the legislation represented changes to the Business Corporation Act upon the recommendation of the Louisiana Law Institute.

**House Bill 284 by Representative Foil (Act 107)** dealt with the business filings of corporations governed by the act and requiring corporations to file the entire text of their original articles of incorporation, rather than a synopsis, filing an annual report with the secretary of state in a timely manner, and allowing thirty days for an amended annual report to be filed and still be considered timely.

### ACCOUNTING

**House Bill 870 by Representative Stokes (Act 553)** involves extensive substantive revisions to the Louisiana Accountancy Act, R.S. 37:71, et seq., as well as technical and style changes (i.e. "person" to "individual" and "chairman" to "chair").

The following definitions are modified as follows:

- (1) The definition of "attest" are updated to include engagements in accordance with the standards of Public Company

Accounting Oversight Board (PCAOB).

- (2) The definition of the category of licensing of "CPA-Retired" status includes the requirements for such a designation, such as (a) having been a licensee for a minimum of twenty years and a minimum age of fifty-five and (b) no longer engaged as an owner, partner, shareholder, member, contractor, contractee, or employee of a CPA firm or a licensee holding a license with a CPA-Retired status as a result of a medical disability.
- (3) Changes are made to the definitions of "good moral character" and "preparation of financial statement".
- (4) The "Commonwealth of the Northern Marianas Islands" is added to the definition of a "state".

The State Board of Certified Public Accountants of Louisiana (hereinafter "the board") is allowed to impose and collect fees through the promulgation of rules in accordance with the Administrative Procedure Act, within maximum amounts listed in the legislation.

Those maximums that were increased are as follows:

- (a) compensation for board officers capped at \$250
- (b) compensation to board members capped at \$200
- (c) a notice under substantial equivalency maximum of \$200
- (d) maximum written verification fee of \$100
- (e) maximum for registration/renewal for CPA-Inactive status of \$100
- (f) maximum for registration/renewal for CPA-Retired status is \$50

(g) the maximum for an application to establish experience/evaluate education courses and qualifications is \$200

(h) the maximum fee for renewal of annual certificate is \$200

(i) additional fee if no renewal prior to February 1 is a maximum of \$200 per month of delinquency

(j) additional fees to licensees or CPA firms who have been delinquent three times in the previous six years is \$300

(k) maximum fee for the initial application for a firm permit is \$250

(l) annual filing fee for a firm permit is capped at \$100 plus \$25 each for every owner after the first ten and a maximum fee of \$2,500 per firm

(m) additional fees for delinquent firm permit renewals after February 1 is capped at \$300.

Current provisions regarding delinquent renewal fees on March 1 and April 16 are repealed. Also, repealed are fees relative to CPA accountants, registrants, or CPA firms with three suspensions.

The Act further provides a minimum age of eighteen for certification as a Certified Public Accountant and it eliminates the educational requirement of at least one hundred and fifty semester hours of college credit prior to taking the examination to become certified.

The Act changes the requirement that the certificate examination be held twice a year to being held "regularly throughout the year",

Further provisions include the requirement that CPA's granted "retired" status shall place that word immediately

adjacent to their CPA title on various forms of communication, i.e. "CPA-Retired".

The non-licensee owner of a CPA firm shall be of "good moral character" and a firm is no longer required to register each office within the state nor to show that attest services in Louisiana are under the control of a valid Louisiana licensee.

The provisions of the Act provide clarity that firms engaged in providing attest services shall enroll in a board-approved peer review program and abide by the rules of that program. Provides approval of all of the following programs:

(a) American Institute of Certified Public Accountants ("the Institute") peer review program

(b) other programs by organization involved in the administration of that organization that use the standards for Performing and Reporting on Peer Review of the Institute

(c) the Society of Louisiana CPA's and other societies involved in the Institute's peer review programs

(d) Public Company Accounting Oversight Board's permanent inspection process.

The language requires firms to make peer review and PCAOB inspection results available to the board.

The language provides for a 24 month period (rather than a 12 month term) for a firm to operate after the death of the firm's sole owner and for the firm to permit to be renewed annually for the firm to continue.

The provisions of the Act state that the board may require a license or privilege holder to subject its work product to pre-issuance review by a licensee acceptable to the board.

The Act adds that preparation of financial statement engagements purported to be in compliance with professional standards (SSARS) can only be performed by licensees or individuals granted privileges pursuant to R.S. 37:94.

Provisions of the Act further require the disclosure of any finder's fee payment, commission, or referral fee.

Finally, the Act provides that those granted practice privileges under substantial equivalency provisions are only allowed to perform attest services through a firm meeting the requirements in the Louisiana Accountancy Act.

## Constitutional Amendments

by: Tom Tyler  
(225) 342-6156

Proposed amendments to the constitution will be submitted at the statewide election to be held on *November 8, 2016*.

### First Extraordinary Session

#### INCOME TAXES

In computing state income taxes, **House Bill 31 by Representative Leger (Act 31)** removes the constitutional protection allowing deduction for federal taxes paid by corporations and retains this constitutional protection for federal tax deductions when computing state individual income taxes.

**House Bill 76 by Representative Stokes (Senate finance committee)** would have removed the limitation on state income tax rates and brackets as they existed in state law on January 1, 2003 and provided that the maximum income tax rate not exceed 4.75%. Would have removed the constitutional protection providing for the deduction of federal income taxes paid when computing state income taxes.



### Regular Session

#### PUBLIC OFFICIALS

##### Registrar of Voters

**House Bill 459 by Representative Danahay (Act 677)** makes it clear that the appointment of a registrar of voters by a parish governing authority is to be made in the manner as provided by law. Retains provisions that the compensation, removal from office for cause, bond, powers, and functions are to be provided by law but also adds that the qualifications for a registrar are included in this listing that is to be provided by law.

##### Election to Hold Office

Persons convicted of a felony would have been unable to qualify for election to hold office or to be appointed to office under **House Bill 275 by Representative Gregory (Senate committee)**. An exception was provided for felons who had been pardoned or if fifteen or more years had elapsed from the completion of sentence for the conviction.



## COLLEGE TUITION

The boards of supervisors of LSU, Southern, Community and Technical Colleges, and the ULL System, are granted authority to establish the tuition and mandatory fee amounts charged by their respective without legislative approval under **Senate Bill 80 by Senator Morrish (Act 680)**.

## AD VALOREM TAX EXEMPTION

### Unmarried Surviving Spouse

**House Bill 505 by Representative Mike Johnson (Act 678)** grants a homestead exemption to the unmarried surviving spouse of a person who died while on active duty with the armed forces of the United States, the Louisiana National Guard, or while performing duties as a state police officer or law enforcement or fire protection officer who qualified for state supplemental pay.

The exemption applies only if all of the following conditions are satisfied:

- (a) The property is eligible for the homestead exemption and was the residence of the person who died.
- (b) The surviving spouse has not remarried.
- (c) The surviving spouse annually provides evidence of eligibility for the exemption as provided in the constitution.

In addition, once qualified for the exemption, if the surviving spouse acquires a different property which qualifies for the homestead exemption, then they are be entitled to an exemption on that subsequent homestead, bu the exemption is limited in value to the amount of the exemption claimed on the prior

homestead in the last year for which the exemption was claimed.

## SPECIAL FUNDS

The Revenue Stabilization Trust Fund (Fund) is created in the state treasury under **House Bill 603 by Representative Leger (Act 679)** and requires the treasurer to deposit the following amounts into the Fund:

- (1) The revenues in excess of \$600 Million received from corporate franchise and income taxes as recognized by the Revenue Estimating Conference.
- (2) Mineral revenues, which include severance taxes, royalty payments, bonus payments, or rentals, after specific constitutional allocations have been made and with the following exceptions:
  - (a) Revenues designated as nonrecurring by the Revenue Estimating Conference in its official forecast.
  - (b) Revenues received by the state as a result of grants or donations when the terms or conditions thereof require otherwise.
  - (c) Revenues derived from any tax on the transportation of minerals.

Requires that monies deposited into the Fund be permanently credited to the Fund and invested by the treasurer who shall deposit all interest and other income from investments generated from the Fund into the state general fund.

Prohibits appropriations from the Fund except as follows:

- (1) (a) In any fiscal year in which the Fund balance at the beginning of the year is in excess of \$5 billion, which is the minimum fund balance, the legislature may appropriate an amount not to exceed 10% of the Fund balance, which is the allowable percentage, for the following:
  - (i) Capital outlay projects in the comprehensive state capital budget.
  - (ii) Transportation infrastructure.
- (b) The minimum fund balance or the allowable percentage may be changed by a law enacted by 2/3 of the elected members of each house of the legislature.
- (2) In order to ensure the money in the Fund be available for appropriation in an emergency, the legislature may appropriate monies from the Fund at any time for any purpose only after the consent of 2/3 of the elected members of each house of the legislature. If not in session, this 2/3 requirement may be satisfied upon obtaining the written consent of 2/3 of the elected members of each house of the legislature in a manner provided by law.

**Act 679** also provides that after the allocation of mineral revenues to various constitutional and specific statutory funds, then the mineral revenues received in each year in excess of \$660 Million and less than \$950 Million are to

be allocated as follows:

- (1) 30% to be appropriated to the Louisiana State Employees' Retirement System and the Teachers' Retirement System of Louisiana for application to the balance of the unfunded accrued liability until the liability is been eliminated and prohibits use of these monies, directly or indirectly, to fund cost-of-living increases.
- (2) The remainder to be deposited into the Revenue Stabilization Trust Fund.

Mineral revenues in excess of the base which would otherwise be deposited into the Budget Stabilization Fund under Subparagraph (A)(2) of Section 10.3 of this constitution, but are prohibited from being deposited into the fund if the deposit causes the fund balance to exceed 4% of the total state receipts for the previous fiscal year, shall be distributed as follows:

- (1) 30% to be appropriated to the Louisiana State Employees' Retirement System and the Teachers' Retirement System of Louisiana for application to the balance of the unfunded accrued liability until the liability has been eliminated and prohibits use of these monies, directly or indirectly, to fund cost-of-living increases.
- (2) The remainder to be deposited into the Revenue Stabilization Trust Fund.

## PROJECTED DEFICIT

In order to avoid a projected budget deficit certain thresholds are to be satisfied in order to implement procedures to avoid a deficit budget. **Senate Bill 201 by Senator Allain (Act 681)**, provides that in addition to situations in which the official forecast of recurring revenues for the next fiscal year is at least 1% less than the official forecast for the current fiscal year, deficit avoidance procedures may be initiated when the official forecast of recurring revenues for the next fiscal year is at least 1% from the most recently adopted estimate for the ensuing fiscal year.

The deficit avoidance procedure includes use of an amount not to exceed 5% of the total appropriations or allocations for the current fiscal year from any fund for expenditure in the next fiscal year for a purpose other than as specifically provided by law or this constitution.

**Act 681** also allows use of an amount not to exceed 1% of the balance in the current fiscal year from any constitutional fund for use in the next fiscal year for any purpose.

**Act 681** also provides for use of not more than 1% of MFP monies when the official forecast of recurring revenues for the next fiscal year has been reduced by at least one percent from the most recently adopted estimate for the ensuing fiscal year.

In addition to constitutional exceptions to this transfer of monies to avoid a budget deficit, **Act 681** adds to the list of exceptions monies associated with the Coastal Protection and Restoration Fund, the Conservation Fund, the Oilfield Site Restoration Fund, any health care provider fees or assessments in the Hospital Stabilization Fund, the La. Medical Assistance Trust Fund, and supplements to the salaries of full-time local law enforcement and fire protection officers.

### Second Extraordinary Session

## INCOME TAXES

**House Bill 7 by Representative Stokes (failed House final passage)** would have removed the constitutional limitation on state income tax rates and brackets as they existed in state law on January 1, 2003 and provides that taxes paid by individuals be levied at a flat rate which shall not exceed 4.75%. Would have removed the constitutional protection allowing deduction for federal taxes paid by individuals and retains this constitutional protection for federal tax deductions when computing state corporate income taxes.

Had it passed, **House Bill 7** would have changed the proposed amendment contained in Act 31 of the 2016 First Extraordinary Session to read identical to that contained in **House Bill 7**.

## Corrections

by: *Tim Prather*  
(225) 342-8299

### 2016 First Extraordinary Session

No bills relative to "Corrections" were filed during this session.

### 2016 Regular Session

#### MOTOR VEHICLE

Addressing the needs of the state's young drivers, **Senate Resolution 141 by Senator Carter (Sent to the Secretary of State)** requests the Dept. of Public Safety and Corrections, public safety services, to study and make recommendations relative to fees and payment methods available to students for driver education courses. The resolution requires the Dept. of Public Safety and Corrections to report to the legislature no later than February 1, 2017.

Attempting to help those drivers who have lost their licenses and have applied for an economic hardship license, **House Bill 1134 by Representative Hazel (Act 607)** addressed the current law that prohibited the Dept. of Public Safety and Corrections, office of motor vehicles from issuing an economic hardship license to a person whose driver's license is suspended and has not been renewed because of delinquent state taxes.

The bill requires the Dept. of Public Safety and Corrections, office of motor vehicles to issue an economic hardship license to a person whose driver's license is suspended and has not been renewed because of delinquent state taxes. The bill further specify that the economic hardship license is valid for a period of 1 year or until such time as the individual has paid or made payment arrangements relative to his state tax delinquency.

Presently, the Dept. of Public Safety and Corrections, public safety services, may contract with or license another state, an employer, a private driver training facility, driver education course provider, or other private institution, or a department, agency, or instrumentality of a local government to administer skills tests. **House Bill 747 by Representative White (Act 293)** requires a third party tester or third party examiner with whom the Dept. of Public Safety and Corrections, public safety services, has a contract with or to whom has issued a license to administer the skills test for a commercial driver's license or an endorsement on a commercial driver's license in accordance with state and federal statutes and regulations and policies adopted by the Dept. of Public Safety and Corrections, public safety services, in accordance with such statutes and regulations. The Act prohibits a person or business from operating,



advertising, or holding oneself or itself out as a third party tester or a third party examiner unless such person or business has a current contract with the Dept. of Public Safety and Corrections, public safety services, to operate as a third party tester or a third party examiner or is currently licensed by the Dept. of Public Safety and Corrections, public safety services, to operate as a third party tester or a third party examiner.

The Dept. of Public Safety and Corrections, public safety services, is authorized to issue cease and desist orders to persons operating as a third party tester or a third party examiner without a contract with or license from the Dept. of Public Safety and Corrections, public safety services, or to a third party tester or a third party examiner who is operating in violation of the law. Also, the Dept. of Public Safety and Corrections, public safety services, will promulgate administrative rules to implement the Act as it relates to the issuance of a cease and desist order.

### **PUBLIC BUILDINGS**

To honor a long serving public official, **House Bill 442 by Representative Robert Johnson (Act 49)** authorizes the secretary of the Dept. of Public Safety and Corrections, notwithstanding the current law relative to naming buildings after any living person, to rename the correctional facility at Cottonport, La., as the "Raymond LaBorde Correctional Center" in honor of former state representative Raymond LaBorde.

### **CORRECTIONS**

One of several attempts to reduce the overcrowding of our state prisons, **House Concurrent Resolution 69 by Representative Leger (Sent to the Secretary of State)** directs the La. Justice Reinvestment Task Force to continue to evaluate, analyze, and undertake a comprehensive review of the state's adult criminal justice system and, using a data-driven approach, develop sentencing and corrections policy recommendations for legislative consideration to reduce the prison population, provide better use of resources, and reduce recidivism.

### **2016 Second Extraordinary Session**

No bills relative to "Corrections" were filed during this session.



### 2016 Regular Session

While the fiscally-oriented First and Second Extraordinary Sessions of 2016 were not directly concerned with matters of criminal law and procedure, the Regular Session saw the creation of several new crimes and a continued emphasis on matters related to domestic violence. Juvenile justice issues were also prominent during the Regular Session, while a number of bills relative to drones failed to take flight.

#### NEW CRIMES

**Senate Bill 33 by Senator Gatti (Act 196)** provides that no person may knowingly and for money, including but not limited to fees for storage or handling, payments for reimbursement, repayments, or compensation, or any other consideration: (1) collect, harvest, sell, receive, or otherwise transfer or acquire a fetal organ or body part resulting from an induced abortion; (2) transport with the intent to sell or otherwise transfer a fetal organ or body part resulting from an induced abortion; or (3) transport a fetal organ or body part resulting from an induced abortion that has been acquired by any person via any prohibited transaction.

**Senate Bill 171 by Senator Gary Smith (failed House final passage)** would have created the crime of infliction of serious injury or death on a public road user, which is the inflicting of serious bodily injury upon a

## Crimes/Criminal Procedure

by: *Alden Clement*  
(225) 342-0640

public road user or killing a public road user, when such injury or death is caused proximately or caused directly by an offender operating a motor vehicle in a careless manner. A person issued a traffic citation pursuant to this law must attend a hearing on the citation before a court having jurisdiction over the alleged offense.

**Senate Bill 289 by Senator Johns (pending House Administration of Criminal Justice)** would have created the crime of malfeasance in office by a law enforcement officer involving sexual conduct, and makes it unlawful for a law enforcement officer or any employee of the Department of Public Safety and Corrections to engage in any sexual conduct with a person who is under their supervision and who is confined in a prison, jail, work release facility, or correctional institution, or who is under the supervision of the division of probation and parole. The bill also would make it unlawful for any law enforcement officer, while on duty, to entice, compel, or coerce any person to engage in sexual intercourse or any other sexual conduct with the officer.

**Senate Bill 453 by Senator White (Act 350)** adds the crime of Medicaid fraud to the list of crimes governed by state racketeering laws. Under Louisiana law, "racketeering activity" means committing, attempting to commit, conspiring to commit, or soliciting, coercing, or intimidating another person to commit any crime that is punishable

under certain provisions of present law including solicitation for murder, second degree murder, aggravated kidnapping, extortion, theft, manufacture and distribution of certain drugs, money laundering, corrupt influencing, public contract fraud, and pornography involving juveniles. Medicaid fraud involving racketeering activity is now punishable by the more severe penalties applicable to racketeering offenses.

**House Bill 197 by Representative Pylant (Act 411)** creates the crime of unlawful operation of a child day care center, defining the crime as either: (1) the intentional operation of a child day care center without a license; (2) the continued operation of a child day care center after notification by the Department of Education that the person operating the facility should seek a license; or (3) the continued operation of a child day care center after the Department of Education has revoked a license.

**House Bill 546 by Representative Hunter (Act 437)** creates the crime of homestead exemption fraud, providing that it is unlawful for someone to intentionally claim more than one homestead exemption. Penalties for this crime are imprisonment for up to six months, a fine of up to \$500, or both. Further, a person convicted of homestead exemption fraud is required to make full restitution to the state or governmental subdivision that has suffered a financial loss as a result of the offense.

## DOMESTIC VIOLENCE

**House Bill 590 by Representative Leopold (Act 399)** provides that when an accused is charged with a crime involving abusive behavior against a family or

household member, or with acts that constitute cruelty involving a juvenile, evidence of the accused's commission of another crime, wrong, or act involving similar past behavior against a family or household member may be admissible and may be considered for their bearing on any matter to which it is relevant, subject to a balancing test. This balancing test provides that, although relevant, this kind of evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, or waste of time.

**House Bill 931 by Representative Malinda White (Act 452)** provides that, with regard to court-monitored domestic abuse intervention programs, mere participation no longer satisfies the requirement of that penalty, but rather completion of such program is mandated.

**House Bill 1155 by Representative Hodges (Act 465)**, also known as "The Brandi Trahan Act," provides that a person on whose behalf the court has issued a permanent injunction or a protective order to bring about the cessation of abuse, and that also prohibits the subject of the order from possessing a firearm for the duration of the injunction or protective order, may apply to the Department of Public Safety and Corrections for the issuance of a temporary concealed handgun permit. The person may apply online or in person, must agree to hold harmless the department, must meet the qualifications for the issuance of a concealed handgun permit (but not demonstrate use of the firearm upon application), and must pay a \$25 fee (which fee will be applied to the cost of a concealed handgun permit when training is completed).

Further, this permit is valid only in Louisiana and does not satisfy the reciprocity requirements with any other state concealed firearm provisions. The department must still conduct a background check prior to the issuance of the temporary concealed handgun permit. The temporary permit expires 45 days from the date it is issued unless the regular concealed handgun permit has been issued prior to the expiration of the 45 day period. A copy of the permanent injunction or the protective order must be carried at all times that the person is carrying the concealed handgun.

## JUVENILE JUSTICE

In *Miller v. Alabama*, 567 U.S. \_\_\_\_, 132 S.Ct. 2455 (2012), the Supreme Court held that mandatory life imprisonment without the possibility of parole for an offender under the age of 18 violates the 8th Amendment's prohibition on cruel and unusual punishment. Subsequently, in *Montgomery v. Louisiana*, 577 U.S. \_\_\_\_ (2016), the Supreme Court held that *Miller's* prohibition on mandatory life without parole for juveniles is to be applied retroactively. The court further held that a state may remedy a *Miller* violation by extending parole eligibility to juvenile offenders.

**Senate Bill 127 by Senator Martiny (pending House Administration of Criminal Justice) and Senate Bill 367 by Senator Claitor (pending House Administration of Criminal Justice)** would have applied present law relative to parole eligibility for juvenile offenders sentenced to life imprisonment, enacted in the wake of the *Miller* decision, retroactively to those juveniles sentenced to life imprisonment prior to *Miller*. Accordingly, these bills provided

that any person serving a sentence of life imprisonment for a conviction of first degree murder or second degree murder who was under the age of eighteen years at the time of the commission of the offense would have been eligible for parole if a judicial determination were made that the person is entitled to parole eligibility and a number of specific conditions were met, including that the offender had served 35 years of the sentence, had obtained a GED, and obtained a low-risk level designation as determined by the Department of Public Safety and Corrections.

**Senate Bill 324 by Senator Morrell (Act 501)** essentially requires persons under the age of 18 years to be treated as juveniles, not adults, for the purposes of criminal law and procedure.

## DRONES

A few bills designed to regulate unmanned aircraft systems ("drones") found success, but most failed to garner enough support to either successfully pass through committee or pass off the House or Senate floors.

**Senate Bill 73 by Senator White (Act 268)** provides that "obstruction of" a law enforcement officer includes the intentional crossing or traversing of a police cordon by an unmanned aircraft. The Act further defines a "police cordon" to include the airspace above the cordoned area. If the flight of the unmanned aircraft into the cordoned area endangers the public or an officer's safety, law enforcement personnel or fire department personnel are authorized to disable the unmanned aircraft.



**Senate Bill 124 by Senator Claitor (substitute adopted on the Senate floor)** in its original version would have created the crime of criminal trespass by unmanned aircraft, but was subsequently amended by substitute **Senate Bill 472 by Senator Claitor (subject to call - Senate final passage)** would have adopted a more comprehensive approach to various crimes that could be committed via the use of an unmanned aircraft system (UAS).

**Senate Bill 141 by Senator Claitor (Act 529)** would provide that the crime of criminal trespass can also be committed by use of a UAS.

**House Bill 19 by Representative Dwight (Act 539)** prohibits the use of a UAS over the grounds of a state or local jail, prison, or other correctional facility that incarcerates or detains juveniles or adults without the express written consent of the person in charge of that state or local jail, prison, or other correctional facility as an element of the crime. The bill also prohibits the use of a UAS to conduct surveillance of, gather evidence, collect information about, or photographically or electronically record a school or school premises.

**House Bill 635 by Representative Hunter (Act 635)** would provide that the crimes of video voyeurism, voyeurism, and peeping Tom can be committed via the use of a UAS.

**House Bill 811 by Representative Armes (pending House Administration of Criminal Justice)** would have prohibited the use of a UAS in the airspace directly above privately owned immovable property, up to a height of 350 feet, without the express or legal

consent of the property owner, or to conduct surveillance of photograph an individual or privately owned immovable property without the express or legal consent of the individual or the property owner.

## SEX OFFENSES

**Senate Bill 70 by Senator Long (Act 267)** makes it unlawful for a registered sex offender to solicit door-to-door any kind of business, including but not limited to sales of goods and services.

**Senate Bill 90 by Senator Johns (Act 269)** raises the threshold age of the victim for the crimes of human trafficking and trafficking of children for sexual purposes from 18 years to 21 years.

**House Bill 210 by Representative Connick (Act 41)** adds attempted first degree rape and second degree rape to the list of crimes with a 30 year time period for institution of prosecution in cases where the victim is under 17 years of age.

## FIREARMS

There was an unsuccessful move to add Louisiana to the 20% of states allowing persons not otherwise prohibited from possessing a firearm to carry a concealed handgun without a permit.

**Senate Bill 46 by Senator Gatti (pending Senate Judiciary B committee)** and **House Bill 6 by Representative Ivey (involuntarily deferred in House Administration of Criminal Justice)** would have excluded carrying a concealed handgun from the crime of illegal carrying of weapons for Louisiana residents who are 21 years of

age or older and who are not otherwise prohibited from possessing a firearm under any federal law or a state law that prohibits certain felons from possessing or concealing firearms.

**House Bill 4 by Representative Ivey (involuntarily deferred in House Administration of Criminal Justice)** would have sent a Louisiana constitutional amendment to the voters in November to provide that the right to keep and bear arms includes the right to carry a concealed handgun without a permit or license.

Other less expansive bills relative to firearms met with varying degrees of success.

**Senate Bill 102 by Senator Gary Smith (Act 337)** provides that signs marking "firearm free zones," in addition to the method developed at the discretion of the state superintendent of education or the commissioner of higher education, must provide notice that armed law enforcement officers are permitted within the firearm-free zone by including on the signs the language, "Law Enforcement Weapons Permitted," or language substantially similar thereto.

**House Bill 140 by Representative Howard (Act 541)** provides that the current attorney general and retired attorneys general, as well as certain assistant attorneys general, can lawfully carry concealed weapons.

**House Bill 304 by Representative Magee (Act 44)** exempts veterans of the United States armed forces from all fees associated with concealed handgun permits.

**House Bill 693 by Representative Jimmy Harris (subject to call - House final**

**passage)** would have expanded those areas in which carrying a firearm or dangerous weapon is prohibited to include property used as a public park, playground, or recreational facility. There would have been an exception for concealed handgun permit holders.

## **CONTROLLED DANGEROUS SUBSTANCES**

The two most significant controlled substances bills of the session related to medical marijuana.

**Senate Bill 180 by Senator Mills (Act 343)** provides that the following persons are not subject to prosecution for possession or distribution of marijuana: (1) any person who is a patient of the state-sponsored medical marijuana program in Louisiana, and possesses medical marijuana in a form permissible under present law for medical conditions set forth in present law; and (2) any person who is a domiciliary parent of a minor child who possesses medical marijuana on behalf of his minor child in a form permissible under present law for a condition enumerated in present law and pursuant to a legitimate medical marijuana prescription. The Act further provides that the defendant bears the burden of proof of establishing that the possession or distribution of the marijuana in question was in accordance with the state-sponsored medical marijuana program.

**Senate Bill 271 by Senator Mills (Act 96)** provides that medical marijuana can be recommended for certain debilitating medical conditions (cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity, severe muscle

spasms, Crohn's disease, muscular dystrophy, and multiple sclerosis). The Act further defines "recommend" or "recommended" as an order from a physician domiciled in Louisiana, licensed and in good standing with the Louisiana Board of Medical Examiners, and authorized by the board to recommend medical marijuana that is patient-specific and disease-specific.

### CRIMINAL PROCEDURE

**Senate Bill 123 by Senator Claitor (Act 613)** revises and reorganizes prior law relative to bail, including eligibility for bail, procedures, failure to satisfy a judgment of bond forfeiture, failure to appear, surrender of the defendant, the time delays for taking a suspensive appeal, failure to timely satisfy a claim under a criminal bond contract, as well as numerous other provisions and technical corrections. These revisions and reorganization would take effect on January 1, 2017.

**Senate Bill 150 by Senator Perry (Act 474)** requires a bail hearing prior to setting bail for any person in custody who is not a citizen of the U.S. or not lawfully admitted for permanent residence and who is charged with the commission of an offense involving a fatality. This hearing is to be held within five days of the date of determination of probable cause, exclusive of weekends and legal holidays. At the hearing, the court is to determine the conditions of bail or whether the defendant should be held without bail pending trial. Following the hearing and based upon the judge's review of certain factors, the judge may deny bail, upon clear and convincing evidence that the defendant might flee, or that the defendant poses an imminent danger to any other person or the

community.

**Senate Bill 196 by Senator Cortez (failed House final passage)** would have limited a judge's discretion to vary from mandatory minimum sentences in cases involving the use of a firearm. Specifically, with regard to the "violent felonies" of second degree sexual battery, aggravated burglary, carjacking, armed robbery, second degree kidnapping, manslaughter, or second degree rape, the bill provided that if the court found that the violent felony involved the possession, use, or discharge of a firearm, and the felony resulted in a fatality, the court would have to impose a minimum term of imprisonment in actual physical custody of not less than three years.

**House Bill 7 by Representative Price (Act 125)** provides for the expungement of misdemeanor and felony arrest records, and of felony arrest and conviction records, if the person was judicially determined to be factually innocent and entitled to compensation for a wrongful conviction. The Act also allows for the expungement of certain other convictions (including aggravated battery, simple robbery, purse snatching, and illegal use of weapons), if more than 10 years have elapsed since the person completed his sentence, has not been convicted of any other criminal offense during the ten-year period, has no criminal charges pending against him, and has been employed for a period of 10 consecutive years.

**House Bill 42 by Representative Dwight (Act 352)** provides that the time limitations for prosecution of video voyeurism (four years from the commission of the offense) do not begin to run until the crime is discovered by the victim.

## Culture, Recreation & Tourism



### CULTURE

by: Cheryl Serrett  
(225) 342-1022

#### Regular Session

**Senate Bill 110 by Senator Ward (Act 15)** recreates the Department of Culture, Recreation and Tourism. The department will face review again in 2020.

Act 1280 of the 1999 Regular Session created the Percent for Art Program. The program required that one percent of state expenditures for construction or renovation of state buildings be used to purchase works of art. **House Bill 216 by Representative Hensgens (Act 600)** limits the amount of money required to be spent on artwork to the lesser amount of \$450,000 or one percent.

**Senate Bill 277 by Senator Bishop (Act 615)** authorizes the Department of Culture, Recreation and Tourism to employ state museum police officers. The officers will be vested with the same authority and powers as other state law enforcement officers including the power to arrest on the streets, roads, and rights-of-ways within or contiguous to the property of the museum. In addition, the legislation requires both state museum police officers and state park wardens to complete a basic training program approved by the Council on Peace Officer Standards and Training and fulfill all requirements for basic firearms training.

**House Concurrent Resolution 80 by Representative Carter (sent to the Secretary of State)** creates the Virtual Library Study Commission. The Commission, which is to be overseen by the lieutenant governor or his designee, is to conduct a study and make recommendations regarding the establishment of a statewide virtual library that will provide greater access to library resources to all citizens of the State. The 10 member Commission shall begin meeting by August 1, 2016, and shall cease to exist by June 30, 2017. The written report of the Commission's findings shall be submitted to the Senate and House Committees on Education by March 1, 2017.

Several bills were introduced during the 2016 Regular Legislative Session to remove museums with a local focus from the Department of State. Two of the bill were enacted: **Senate Bill 63 by Senator Walsworth (Act 14)** removes the Chennault Aviation and Military Museum of Louisiana and **Senate Bill 139 by Senator Riser (Act 16)** removes the Schepis Museum.

## RECREATION

by: *Tammy Crain Waldrop*  
(225) 342-9818

### 2016 First Extraordinary Session

No bills dealing with the subject of Recreation.

### 2016 Regular Session

**House Bill 855 by Representative Huval (Act 260)** Authorizes the use of golf carts within Lake Fausse Pointe State Park.

**Senate Bill 40 by Senator Perry (Act 187)** re-creates the income tax checkoff donation for Friends of Palmetto Island State Park.

**Senate Bill 63 by Senator Walsworth (Act 14)** removes Chennault Aviation and Military Museum from the jurisdiction of the Department of State.

**Senate Bill 139 by Senator Riser (Act 16)** removes the Schepis Museum from the jurisdiction of the Department of State.

**Senate Bill 267 by Senator Morrell (Senate Final)** would have provided relative to certain entities or organizations in the entertainment industry receiving capital outlay funding.



**Senate Resolution 129 by Senator W. Bishop (Enrolled sent to Secretary of State)** requests the New Orleans Recreation Development Commission to provide a detailed report on the status of reopening Pradat Playground and Pool.

### 2016 Second Extraordinary Session

No bills dealing with the subject of Recreation.

## *TOURISM*

by: *Linda Nugent*  
(225) 342-8892

### *2016 Regular Session*

#### **RE-CREATION OF THE DEPARTMENT OF CULTURE, RECREATION AND TOURISM**

The Department of Culture, Recreation and Tourism was re-created by **Senate Bill 110 by Senator Ward (Act 15)**. Each department of the executive branch of government is required by statute to be re-created periodically.

#### **HOTEL OCCUPANCY TAX**

Jefferson Parish currently collects a hotel occupancy tax, the proceeds of which are to be used to fund tourism promotion in Jefferson Parish and in the municipalities of Jefferson Parish to fund programs and special events relating to tourism. **Senate Bill 378 by Senator Martiny (referred to Senate Local and Municipal Affairs Committee)** would have specified that the proceeds to fund tourism promotion in the parish of Jefferson would be directed to the Jefferson Convention and Visitors Bureau, Inc.

#### **TOURISM DAY**

In recognition of the importance of tourism to the state, in terms of number of visitors, the number of jobs and job growth in the tourism industry, and the revenue generated from visitors to the state, April 19, 2016, was designated as Tourism Day at the State Capitol **Senate Resolution 67 by Senator Johns (Sent to Secretary of State) and House Resolution 70 by Representative Leger (Sent to Secretary of State)**.



## Economic Development

by: Heyward Jeffers  
(225) 342-2064

### First Extraordinary Session 2016

No Economic Development Bills Filed

### Regular Session 2016

Economic Development Districts. **Senate Bill 137 by Senator Barrow (Act 528)** provides that the Baton Rouge North Economic Development District Board may propose a hotel occupancy tax in East Baton Rouge Parish. The Act, and others like it, was proposed to address areas in certain municipalities that have been hard hit by job loss, deterioration of business facilities, and relocation of businesses to areas more likely to experience economic growth and viability. This measure would allow a tax of two percent of the rent or fee charged for such occupancy. The tax shall be imposed by ordinance adopted by the governing authority of East Baton Rouge Parish and the ordinance, if approved by the governing authority, would provide for necessary rules and regulations for imposition, collection, and enforcement of the tax. Such collections could begin no earlier than September 1, 2016, and the net proceeds of the tax, after deduction of reasonable collection expenses, shall be made available to the district for any

of the district's lawful purposes. Fifty percent of the net proceeds of the tax shall be used to fund the Baton Rouge River Center and 50% of the net proceeds shall be used to fund Visit Baton Rouge.

Non-gaming economic development by casino gaming operators. **Senate Bill 295 by Senator Peterson (Act 483)** will allow casino operators to promote non-gaming economic development through the development of businesses within, adjacent to, and around the official gaming establishment. The new law provides that the total operating force and related total salary level or compensation includes all personnel working at the official gaming establishment or any of its owned, operated, leased or subleased facilities. The gaming operator shall report the size of the operating force or personnel level working on the non-gaming initiatives, which shall not exceed 400 employment positions toward the total operating force or personnel level. The operators will also be required to revitalize the nearby properties where the official gaming establishment is located. The operator shall be required to report quarterly to the board of the Louisiana Economic Development and Gaming Corporation on the status of its economic development efforts. The gaming



operator shall be credited an amount equal to the pro rata share of compensation to employees of the third-party tenants and the credited amount will be applied to the total salary level or compensation and calculated based on the total operating force or personnel level reported to the board.

Tax Increment Financing. **House Bill 1056 by Representative Leger (Act 457)** authorizes the New Orleans Exhibition Hall Authority Economic Growth and Development District to levy taxes and implement tax increment financing and to create subdistricts. The law allows the district to create subdistricts. It also requires the district to publish notice of its intent to create a subdistrict in the official journal of the districts. The district's board shall, at least ten days after publication, conduct a public hearing on the question of creating the subdistrict and provides that each subdistrict constitutes a political subdivision of the state and shall be governed by the district's board. Each subdistrict shall have the same powers granted to the district, such as issuing bonds or other evidence of indebtedness to provide funds to achieve its purposes, including payment of costs of a project.

Riverboat Economic Development and Gaming Task Force. **Senate Concurrent Resolution 17 by Senator Johns (Sent to Secretary of State)** creates a task force to study current law and existing rules and regulations regarding riverboat gaming. It requires a report offering recommendations to promote continued economic development for the riverboat casino industry from the task force to the House Committee on Administration of Criminal Justice and the Senate Committee on Judiciary B no later than 60 days prior to the 2018 Regular Session.

The eleven-member task force shall consist of the following:

1. Chair of the Louisiana Gaming Control board who will serve as chair of the task force.
2. Chair of the House Committee on Administration of Criminal Justice.
3. Chair of the Senate Committee on Judiciary B.
4. Senate president or his designee.
5. House speaker or his designee.
6. Governor or his designee.
7. Superintendent of state police or his designee.
8. Secretary of Louisiana Economic Development or his designee.
9. Attorney general or his designee.
10. Lt. governor or his designee.
11. A representative of the riverboat gaming industry designated by the governor.

Foreign Trade. **House Concurrent Resolution 37 by Representative Connick (Sent to Secretary of State)** urges and requests the Department of Economic Development to develop and improve trade relations with Cuba to the extent the authority of the department is not restricted by state or federal law. The department should conduct a study analyzing all current and future opportunities to establish Louisiana as a



predominant trade partner with Cuba. The department should make a written report of the findings of the study and submit the report to the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs no later than February 1, 2017.

### **Second Extraordinary Session 2016**

No Economic Development Bills Filed

# K-12 Education

by: *Jeanne Johnston*  
(225) 342-0626

## 2016 Regular Session

### ACCOUNTABILITY

The school and district accountability system was created by the State Board of Elementary and Secondary Education (BESE) in 1997, pursuant to R.S. 17:10.1, to provide for a statewide system of accountability for schools and school districts based on student achievement and minimum standards for the approval of schools. The programs is required to include clear and appropriate standards for schools and school districts and indicators for the assessment fo schools and school districts. The accountability system includes the statewide testing program and the assignment of letter grades indicating the performance of schools and school districts. **Senate Bill 303 by Senator Morrell (Act 500)** specifies a new method for how schools in secure care



facilities operated under the authority of the Office of Juvenile Justice (OJJ schools) will be treated under the state's school and district accountability

system. This legislation:

- (1) Requires BESE to adopt rules to establish a specialized accountability program for OJJ schools based upon

recommendations of a mutual accountability team created for that purpose. Requires BESE to create the mutual accountability team as an ad hoc subcommittee of the School and District Accountability Commission.

- (2) Specifies that the specialized accountability program shall include a specialized school report card to assess student achievement in OJJ schools, a monitoring program, and a set of supports, interventions, and remedies to be used when an OJJ school is deemed "academically unacceptable".
- (3) Requires BESE to adopt a policy regarding which records, information, and other documentation to be included in a student's cumulative record.
- (4) Requires OJJ to develop and implement a comprehensive computerized student information system for collecting, storing, and reporting student data.
- (5) Requires the state superintendent of education to designate a program manager to supervise juvenile justice education programs.

- (6) Provides that the Office of Juvenile Justice will be considered a parish school board for purposes of developing pupil progression plans.

**Note:**

*This Act was part of a package of bills introduced during the 2016 Regular Session seeking to significantly reform the state's juvenile justice system to reduce recidivism of youthful offenders, reduce the number of youthful offenders entering the adult criminal justice system, and reduce the likelihood of a youthful offender becoming an adult habitual offender.*

## CHARTER SCHOOLS

Both the number and types of charter schools have changed significantly since the passage of the original Charter School Demonstration Programs Law in 1995. Act 1 of the 2012 R.S. made a significant change to the charter school law by creating a new type of charter school, Type 1B, and required BESE to establish procedures by which to certify "local charter authorizers" to authorize Type 1B charter schools. A local charter authorizer, once certified by BESE, would serve as an alternative avenue, in addition to local school boards and BESE, by which a chartering group could be granted a charter to operate a public school. State agencies and nonprofit corporations with an educational mission were eligible to apply to BESE to become a local charter authorizer. BESE was authorized to certify up to five local charter authorizers to operate in each of the state's eight Regional Labor Market Areas established by the La. Workforce Commission, with no limit on the number of schools each local charter authorizer could charter. Although two applications to become

a local charter authorizer were submitted to BESE for approval in December, 2015, BESE did not act on either application and thus the provisions of law relative to local charter authorizers and the creation of Type 1B charter schools have never been utilized. **Senate Bill 260 by Senator Morrish (Act 497)** repeals BESE's authority to certify local charter authorizers and repeals all statutory provisions relative to local charter authorizers and Type 1B charter schools.

As issues surrounding the enrollment of students with special needs continue to be discussed, legislation continues to be introduced seeking to address the particular needs of students with exceptionalities, other than gifted and talented. **Senate Bill 335 by Senator Claitor (Act 303)** prohibits a charter school from requiring the parent or legal guardian of any student to disclose the student's medical information or special education needs prior to enrolling the student in the charter school, unless such disclosure is otherwise specifically required by law. This law also provides that a charter school may provide an enrollment preference to a student with special needs when the student's parent or legal guardian has voluntarily provided the school with information regarding the student's special needs.

## CURRICULA

**Senate Bill 275 by Senator Mizell (Act 482)** requires that cursive writing be taught in all public schools, including charter schools. Requires schools to ensure that such instruction is introduced by the third grade and incorporated into the curriculum in grades four through 12. The provisions of this Act will become effective on July 1, 2017, making the requirement for instruction in cursive

writing effective for the 2017-2018 school year and thereafter.

**House Bill 401 by Representative Reynolds (Act 624)** requires public elementary and secondary schools to offer instruction in personal financial management based on the concept of achieving financial literacy through the teaching of personal management skills and the basic principles involved with earning, spending, saving, and investing. Such instruction was permissive, rather than mandatory, prior to passage of this Act.

#### MINIMUM FOUNDATION FORMULA

In most legislation sessions, passage of the concurrent resolution that provides for legislative approval of the minimum foundation program formula annually adopted by BESE is a routine matter. However, since the legislature is constitutionally prohibited from amending the formula and can only approve or reject the formula submitted by BESE, in recent years, the formula has been rejected by the legislature more often than it has been approved. Article 8, Section 13(B) of the Louisiana Constitution provides that if the legislature fails to approve the formula most recently adopted by the board, the last formula approved by the legislature shall be used. The legislature rejected the MFP formula proposed for the 2015-2016 fiscal year and also rejected **Senate Concurrent Resolution 44 by Senator Morrish (Senate Education)** which contained the MFP formula submitted by BESE for the 2016-2017 fiscal year. Thus, the MFP formula adopted by BESE for the 2014-2015 fiscal year is the most recent formula approved by the legislature and will remain in effect for the 2016-2017 fiscal year.

The base per pupil amount in the current MFP formula is \$3,961. HB 1 of the 2015 Regular Session provided approximately \$44 million in funding outside of the MFP for K-12 education as follows:

- (1) *\$36.2 million* -  
to be used for a 1.375% in the base per-pupil amount, effectively increasing the base per pupil amount for 2015-2016 from \$3,961 to \$4,051.
- (2) *\$2.6 million* -  
to increase the MFP allocation for the Supplemental Course Program.
- (3) *\$5.4 million* -  
to increase the High Cost Services Allocation to provide additional funding to be used for students requiring a high level of special education services.

House Resolution 231 of the 2015 Regular Session requested BESE to incorporate this supplemental funding into the MFP formula for the 2016-2017 fiscal year, which the board did. Thus the formula adopted by BESE for the 2016-2017 fiscal year represented standstill funding for K-12 education. However, House Bill 1 of the 2016 Regular Session only provided funding for the last approved MFP formula and did not include the \$44 million in supplemental funding outside the formula provide the year before. Because of this, the Senate Education failed to approve the MFP formula proposed for the 2016-2017 fiscal year, effectively reducing funding to K-12 education for the 2016-2017 fiscal year.

## RECOVERY SCHOOL DISTRICT

The Recovery School District (RSD) was created in 2003 as a means for the state to take over failing public schools and make changes in such schools as deemed necessary to improve student academic achievement. Prior to Hurricane Katrina, only five schools, all in New Orleans, had been transferred to the RSD. In 2015, Act 35 raised the minimum school performance score required for transfer of schools to the RSD in certain parishes, thus allowing the state to take over more than 100 schools in New Orleans. Currently, there are 62 Type 5 charter schools in the RSD, 52 of these are in Orleans Parish. **Senate Bill 432 by Senator Peterson (Act 91)** provides that not later than July 1, 2018, every school in Orleans Parish must be returned to the jurisdiction of the local school board, as follows:

- (1) Each RSD Type 5 charter school shall be a Type 3B charter school under the jurisdiction of the Orleans Parish School Board (OPSB) and allowed to function as its own "local education agency" and thereby eligible to directly receive and administer any federal funds allocated to it.
- (2) Requires the RSD to return all buildings, facilities, and property to OPSB when the school is transferred back to the board's jurisdiction, but allows the RSD to continue to retain control over facilities still under construction or renovation pursuant to a federal recovery plan related to Hurricane Katrina, until the construction is substantially complete.
- (3) Requires OPSB to adopt policies to determine the allocation of Minimum Foundation Program (MFP) funds, use of local revenues, parish-wide enrollment systems, including a lottery-based admissions process, and student expulsion processes.
- (4) Requires the local school superintendent to consult with the RSD superintendent to develop a plan to effect the return of schools to OPSB that considers equitable funding for the efficient operation of a system of autonomous schools and includes an implementation time line with a detailed list of tasks and benchmarks appropriately sequenced to efficiently facilitate the return of schools to OPSB. Also requires the local school superintendent to consult with the RSD superintendent to convene an advisory committee to assist in developing the plan.
- (5) Requires the local school superintendent to make regular progress reports on specified dates regarding implementation of the plan to return RSD schools to the local school system to BESE, OPSB, the RSD, and the Senate and House education committees.
- (6) Provides a process by which the final transfer of schools from the RSD to OPSB can be postponed by a majority vote of the full membership of the local school board or the full membership of BESE, under specified criteria.

## SCHOOLS

**House Bill 887 by Representative Carter (Act 672)** establishes THRIVE Academy, an independent, residential, public charter school in Baton Rouge, as a pilot school for certain at-risk students in grades six through 12 who meet specified criteria. In the same manner as the Louisiana School for Math, Science, and the Arts and the New Orleans Center for Creative Arts, THRIVE Academy may enroll students from across the state. The school will be governed by a board of directors which shall select a director to be the school's chief administrative officer and who will administer the rules, regulations, and policies adopted by the board. The director will also be responsible for all the administrative functions, duties, and needs of the board including but not limited to preparing an annual budget, exercising budgetary responsibility and allocating funds appropriated for the school, developing a student handbook, and determining faculty and staff positions.

The school will be considered a public school for purposes of receiving funding through the minimum foundation program (MFP) in the same manner as for other public schools as contained in the MFP budget letter approved by BESE and the school shall also be eligible to receive such other funding as may be specifically appropriated by the legislature. The board may also accept federal and private funds.

The provisions of this Act relative to the creation and functions of the board of directors is effective October 1, 2016. The provisions relative to the functioning of the school as a state authorized school are effective July 1, 2017.

## SCHOOL BUSES

There have been a number of bills filed in years past to require that school buses have occupant restraint systems (seat belts). These bills have failed, not only due to the expense of retrofitting buses currently in use and the increased cost of new bus acquisition, but due to National Highway Traffic Safety Administration (NHSTA) research which showed that school buses were an extremely safe mode of transportation and thus did not recommend that school buses be required to have seat belts. However, in late 2015, the NHSTA issued a strong recommendation that every child who rides a school bus have the safety afforded by a three-point seat belt. NHSTA plans to conduct additional research before considering whether to adopt rules requiring seat belts in school buses. **Senate Bill 204 by Senator Carter (Senate Education)** would have required that school buses manufactured and purchased for use on or after January 1, 2017, be equipped with seat belts, however the fiscal note for the bill was considerable. **Senate Resolution 122 by Senator Carter (Sent to Secretary of State)** requests the state Department of Education to establish a task force to study and make recommendations regarding student transportation and school bus passenger safety, including use of three-point seat belts, in light of NHSTA recommendations.

## SPECIAL EDUCATION - STUDENTS WITH EXCEPTIONALITIES

**Senate Bill 335 by Senator Claitor (Act 303)** addresses two issues surrounding students with an exceptionality, other than gifted and talented.

- (1) Provides that a person who is no longer enrolled in a public school, but was identified as a student with an exceptionality but either failed to receive a high school diploma or was denied graduation solely because of failure to meet exit examination requirements to petition the local school board to determine if the student is eligible to receive a high school diploma. Such petition has to be submitted to the local school board by December 31, 2017. Requires BESE to promulgate rules and regulations to determine the requirements, procedures, and guidelines to be followed in submitting a petition to a local school board. The local school board must submit the individual's diploma request to the state Department of Education.
- (2) Prohibits public schools, including charter schools, from requiring the parent or legal guardian of any student to disclose medical information or special education needs prior to enrolling the student in the public school, unless such disclosure is otherwise specifically required by law. Allows public schools to provide an enrollment preference to a student with special needs when the student's parent or legal guardian has voluntarily provided the school with information regarding the student's special needs.

The proper methods to be used to discipline students with exceptionalities is of considerable concern to parents and educators, and state law (R.S. 17:416.21) requires BESE

to prepare and adopt rules and guidelines for the appropriate use of seclusion, physical restraint, and mechanical restraint for certain students with exceptionalities. **Senate Bill 317 by Senator Donahue (Act 522)** redefines the definition of "physical restraint" and provides that "physical restraint" does not include the momentary blocking of a student's actions if the student's action is likely to result in harm to the student or any other person. BESE is also required to adopt rules establishing guidelines and procedures for public school systems to follow regarding the reporting of incidents of seclusion and physical restraint, including specific data elements to be included in such reporting. To continue the dialog between parents, schools, the Department of Education and other stakeholders regarding the discipline of all students, this legislation creates the Advisory Council on Student Behavior and Discipline to provide advice and guidance to the State Board of Elementary and Secondary Education (BESE) and the state Dept. of Education regarding best practices in providing support to public school governing authorities in the adoption and implementation of school student behavior and discipline plans.

#### **STANDARDS, CURRICULUM, INSTRUCTION, AND ASSESSMENT**

BESE formally adopted the common core state standards for Math and English in 2010 and began the transition to the CCSS standards in these subjects. The CCSS in Math and English were fully implemented in the 2013-2014 School year. Students were administered the LEAP and iLEAP exams, augmented with common core related questions during the transition, with administration of the PARCC tests scheduled

for Spring 2015.

To lessen the negative impacts implementation of the common core state standards and the new assessments were having on students, teachers, schools, and districts, BESE adopted a rule that essentially provided a two-year moratorium on the use of the common core test results for purposes of pupil progression and teacher evaluations. The rule also provided that while an individual school's performance score might change, the overall distribution of school performance scores across the state would remain constant.

Act 329 of 2015 required BESE to review and develop state content standards for English language arts and mathematics for adoption not later than March 4, 2016. To comply with this law, BESE created a standards review committee which concluded its work in February, 2016, and BESE adopted the changes to the standards adopted by the review committee on March 4, 2016. However, as the standards were changing again and related adjustments would have to be made to curricula and assessments, **Senate Bill 262 by Senator Morrish (Act 498)** statutorily extends the moratorium for an additional year and provides that for the 2016-2017 school year BESE shall collect assessment data but shall not require use of the results for evaluating teacher performance or making placement decisions for fourth and eighth grade students. The law also continues the requirement that the distribution of school and district letter grades shall not vary from that in the 2012-2013 school year, unless the school or district has improved in its performance.

## STUDENTS

### DATA PRIVACY

Current law provides for the protection of personally identifiable student information. **Senate Bill 270 by Senator Boudreaux (Act 480)** provides that a local public school system and a Type 2 charter school that enrolls students who reside within the geographic boundaries of the school system shall enter into a memorandum of understanding (MOU) to exchange information necessary to verify student enrollment and residency status. Requires the system and school to keep this information confidential and to use it only for the purpose of verifying student enrollment and residency. Requires that the MOU comply with all applicable state and federal law, including the Family Educational Rights Privacy Act (commonly known as "FERPA").

Current law provides for a penalty of not more than six months imprisonment or a fine of not more than \$10,000 for violators and this penalty also applies to any person who knowingly and willfully fails to maintain the confidentiality of the information exchanged pursuant to a MOU between a local school board and a Type 2 charter school.

### DISCIPLINE

Current law (R.S. 17:252) requires each local public school board to develop a master plan for each school under its jurisdiction for improving student behavior and discipline. **Senate Bill 317 by Senator Donahue (Act 522)** creates the Advisory Council on Student Behavior and Discipline to provide advice and guidance to the State Board of Elementary and Secondary



Education (BESE) and the state Dept. of Education regarding best practices in providing support to public school governing authorities in the adoption and implementation of school student behavior and discipline plans.

### **TEACHERS - PERFORMANCE EVALUATIONS**

Current law requires local public school boards to annually evaluate all teachers and administrators in accordance with BESE rules and regulations. 50% of each evaluation must be based on evidence of growth in student achievement. For teachers of the core subjects of English, Math, Science, and Social Studies, growth in student achievement is determined using a value-added assessment model. For teachers of non-tested grades and subjects, student growth is determined using Student Learning Targets (SLTs) established by the teacher and the school principal. At the conclusion of each year's evaluation, the evaluator will determine whether the teacher or administrator is effective or ineffective. Any teacher or administrator who fails to meet the standard of performance with regard to effectiveness will be placed in an intensive assistance program designed to address the complexity of the teacher's deficiencies and will be formally re-evaluated. If the intensive assistance program is not successfully completed or the teacher or administrator is determined to be ineffective after a formal evaluation conducted immediately upon completion of the program, the local school board is required to initiate termination proceedings. **Senate Bill 477 by Senator Boudreaux (Act 504)** instead requires that 50% of teacher and administrator evaluations be based on evidence of growth in student achievement as determined by the state board.

Further provides that data derived through a value-added assessment model shall be a factor in determining student growth and shall comprise 35% of the overall evaluation.

## Postsecondary Education

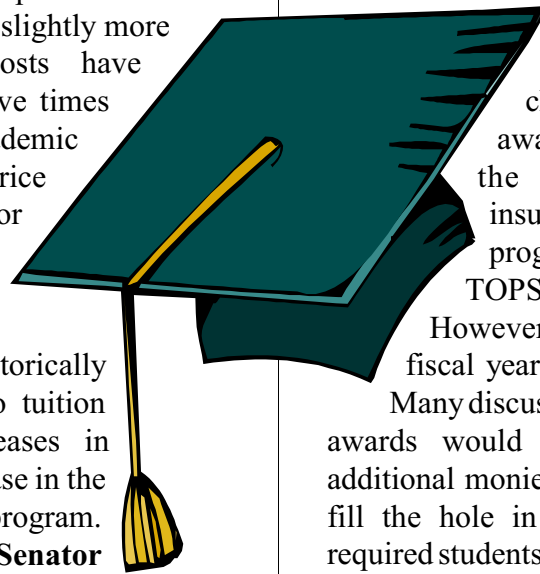
by: Cheryl Serrett  
(225) 342-1022

### 2016 REGULAR SESSION

#### **TOPS - (TAYLOR OPPORTUNITY PROGRAM FOR STUDENTS)**

Several bills focused on making the cost associated with the TOPS program more manageable and predictable in order to preserve the long-term viability of the program. Since the inception of the program, participation has slightly more than doubled, while costs have increased by more than five times (\$54 million in 1998-99 academic year versus an expected price tag of about \$296 million for the 2016-2017 academic year).

TOPS award amounts historically have been directly tied to tuition charges; thus, any increases in tuition resulted in an increase in the state's cost for the TOPS program. **Senate Bill 174 by Senator Donahue (Act 18)** decouples TOPS from tuition so that TOPS award amounts will no longer automatically increase when tuition increases. Future award amounts will be limited to the award amounts granted during the 2016-2017 academic year, unless award amounts are increased by the Legislature through the passage of new law. This will stabilize the cost of the TOPS program.



**Senate Bill 329 by Senator Claitor (Act 388)** increases the minimum grade point average (GPA) requirement for the Performance and Honors Awards. High school students who graduate in the 2020-21 school year and later who receive the Performance Award will be required to earn a 3.25 GPA, up from a 3.00. Those who receive the Honors Award will be required to earn a 3.50, up from a 3.0.

**Senate Bill 470 by Senator Morrish (Act 503)** changes the way that TOPS awards are allocated in the event the legislature appropriates insufficient funding for the program. Since its inception, TOPS has been fully funded. However, the budget adopted for this fiscal year does not fully fund TOPS. Many discussions ensued around the way awards would be adjusted in the case additional monies do not materialize to help fill the hole in TOPS funding. Prior law required students with the lowest eligible ACT scores to be eliminated first, with each succeeding score cohort eliminated until the available funding covers the cost of the remaining award recipients. If an entire cohort was not required to be eliminated, student financial need was to be considered when eliminating students within the cohort. It was argued that the method was unfair because all of the recipients had earned the award and thus all should receive some level of funding. Act 503 provides for a pro-rata reduction of all award amounts, including the Performance

and Honors award stipends. Students will be responsible for paying the difference between the award and the tuition amount, unless their institution waives the difference. If full funding is not provided, students may opt not to accept the reduced award amount and may even elect to sit any given semester without endangering their award eligibility; however, they must exhaust all unused award eligibility within five years.

## TUITION

**Senate Bill 80 by Senator Morrish (Act 680)** is a constitutional amendment that, if approved by the voters at the statewide election to be held on November 8, 2016, will allow each postsecondary education management board to establish the in-state tuition and fee amounts charged by their member institutions. If voters approve the amendment, the legislature will no longer have direct control over setting in-state tuition and fee amounts.

**House Bill 989 by Representative Shadoin (Act 455)** allows each management board to set tuition and fee amounts for nonresident students. Prior law required that nonresident tuition and fees be at least equal to the average nonresident tuition and fee amounts of peer institutions in the southern region.

## MANAGEMENT/COORDINATION

**Senate Bill 446 by Senator Hewitt (Act 619)** requires the Board of Regents to conduct a comprehensive review of Louisiana's public postsecondary education system to evaluate the assets and needs of the system and identify the gaps and barriers to creating a comprehensive, efficient and cost-effective system that meets the educational demands of

the state and its regions. The Board of Regents must provide a written report of its findings and recommendations to the Senate and House committees on education at least 45 days prior to the start of the 2017 Regular Session.

**House Bill 948 by Representative Steve Carter (Act 558)** directs each public postsecondary management board to adopt policies that require each institution under its jurisdiction to develop plans for fully using their existing facilities and for utilizing distance learning. The boards must also develop policies requiring each institution to annually post on their individual websites a report covering specific information on classroom and laboratory facility usage, online course offerings, and cooperative endeavors with other institutions. Prior to submitting a request for state funding of more than \$10 million for construction of a new building, the board must hold a public hearing and submit a summary report on the proceedings with the capital outlay request.

**House Bill 842 by Representative Broadwater (Act 314)** abolishes the Louisiana Student Financial Assistance Commission, the Medifund Board, and the executive board of the Louisiana Universities Marine Consortium for Research and Education and transfers the responsibilities for each board to the Board of Regents.

**House Resolution 237 by Representative Bouie (Sent to the Secretary of State)** seeks to clarify that the management boards have power to establish and implement admission criteria for their member institutions. Currently, the Louisiana Granting Resources and Autonomy for Diplomas Act (GRAD Act) provides that participating institutions must implement minimum admission standards in

accordance with the Board of Regents' policy. However, the GRAD Act agreements expired on June 30, 2016, and no institutions have yet sought to enter into new agreements. Prior to the GRAD Act, the Board of Regents established minimum admission criteria through their Master Plan. Although the current Master Plan lacks specific admission criteria for each institution, the Board of Regents does have a separate policy in place that addresses minimum admission criteria.

## Vocational/Technical Education

*by: Jeanne Johnston  
(225) 342-0626*

### 2016 Sessions

*There were no Vo-Tech Highlights  
for 2016.*

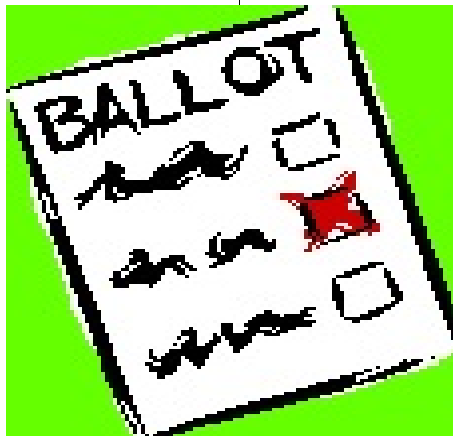
## Elections

by: *Ashley Mitchell Carter*  
(225) 342-2101

### 2016 Regular Session

**House Bill 270 by Representative Pope (Act 106)** provides that the notification of a vacancy in an elective position on BESE within 24 hours after any member of a state board or commission has knowledge of a vacancy in an elective office on that state board or commission, notification shall be given to the governor by certified mail, the date on which it occurred, and the cause thereof, and if the remainder of the term is more than one year, the special election to fill the vacancy shall be as provided in the La. Election Code.

**House Bill 470 by Representative Danahay (Act 358)** provides that each registrar whose salary is at the level of step one or higher shall be evaluated as to merit in Jan. Upon a finding of "excellent" on a merit evaluation, the registrar receives a salary increase to the next step until his salary is equal to the highest step of the appropriate population range. The criteria and procedure for the merit evaluation shall be determined by the secretary of state in conjunction with the Registrar of Voters Association. The secretary of state or his designee acting on his behalf will evaluate each registrar. A registrar may appeal the finding on a merit evaluation to the State Board of Election Supervisors in accordance



with rules promulgated by the board. If a member of the board participates in the merit evaluation of a registrar, the member shall not participate in an appeal of the evaluation.

**House Bill 529 by Representative Danahay (Act 626)** increases the amount per election paid to deputy custodians of parish voting machines from \$75 to \$100.

**House Bill 796 by Representative S. Bishop (Act 313)** requires a municipal governing authority in any municipality with a population of not more than 2,500 persons to call an election if presented with a petition signed by a majority of the qualified electors of the municipality and requires that the petition be limited to a request that an election be called and held in the municipality.

**House Bill 890 by Representative Danahay (Act 281)** authorizes the secretary of state to develop and implement a pilot program for new voting technology and equipment and requires the secretary of state to work with two members each from the House and Senate governmental affairs committees in developing the program. It requires the secretary of state to submit a description of the program and any changes to the committees.

**House Bill 951 by Representative G. Carter (Act 183)** provides that registrars shall close the registration records 20 days prior to an election instead of 30 days prior to an election for a person who makes application online to register to vote or make changes to an existing registration and who has been informed that his application has been electronically forwarded to the appropriate registrar of voters. Additionally the Act requires the registrar to supplement the official list of voters in the precinct register with the names and collateral information for registrants who registered and who were verified after the printing or delivery of the precinct register.

**House Concurrent Resolution 68 by Representative Danahay (Sent to Secretary of State)** requests the secretary of state to continue to maintain a toll-free number to allow members of the public to submit comments, concerns, and questions relative to elections; to immediately send to the appropriate registrar a detailed summary of any such comment, concern, or question; and to track calls to ensure that they are addressed appropriately and to urge and request each registrar of voters to prominently post the toll-free number at his office.

**House Concurrent Resolution 88 by Representative Gaines (Sent to Secretary of State)** requests parish governing authorities to work with public postsecondary education institutions in the state to establish polling places on the campuses of those institutions.

## Energy

by: Alan Miller  
(225) 342-2576

### 2016 First Extraordinary Session

None

### 2016 Regular Session

**Senate Bill 165 by Senator Allain (Act 342)** requires the commissioner of conservation to require that an operator identify the surface owner of lands on which an oil well site is located, no later than 30 days after the issuance of an amended permit to transfer a well to another operator. The Act defines a "surface owner" as the person shown in the assessor's rolls of the parish as the current owner of the surface rights for the land on which the well site is located. The Act further requires the assistant secretary to notify the surface owner of the site, at the address provided by the operator, that the site is declared orphaned and specifies that the failure to notify the surface owner does not invalidate the decision to declare a site orphaned.

**Senate Bill 425 by Senator Allain (Act 582)** dedicates 50% of any annual assessment paid by an operator who chooses not to plug a well classified as inactive into the Oil and Gas Regulatory Fund with the remainder being deposited into the Oilfield Site Restoration Fund and that 50% of any annual assessment paid by an operator who chooses not to plug a well classified as inactive into the Oilfield Site Restoration Fund with the remainder being deposited into the Oil and Gas Regulatory Fund.

**Senate Bill 427 by Senator Allain (Act 526)** authorizes transferrable plugging credits in lieu of the bond with security previously required in order to promote the plugging of orphaned oilfield sites and oilfield sites that have been inactive for at least five years, with the specific requirements and procedures for issuance, transfer, and acceptance of such credits to be developed by the commissioner. The Act requires that the regulations provide criteria under which plugging credits may be earned, and approval by the commissioner for the earning, using, banking, or selling of the plugging credits. The Act further requires the commissioner to make any rules, regulations, and orders that are necessary to require reasonable bond with security for the performance of the duty to plug each dry or abandoned well and to perform the site cleanup as required.

**House Bill 465 by Representative Stuart Bishop (Act 277)** authorizes a monthly fee payable to the office of conservation of two cents per barrel of exploration and production waste delivered from the original generator of the waste to the following facilities:

1. Office of conservation permitted off-site commercial facilities.
2. Transfer stations permitted by the office of conservation for waste transfer to out-of-state treatment or disposal facilities.



3. Any other legally permitted Louisiana off-site waste storage, treatment, or disposal facilities also approved by the office of conservation for the receipt of exploration and production

The Act further prohibits exploration and production waste from including produced brine, produced water, or salvageable hydrocarbons bound for permitted salvage oil operators.

**House Bill 632 by Representative Jim Morris (Act 634)** requires an applicant to provide financial security for a permit to drill or to amend a permit to drill, or for a change of operator in a form acceptable to the commissioner. The Act further requires that an applicant for a permit to drill provide security within 30 days of the completion date or from the date the operator is notified that financial security is required. The applicant must amend a permit to drill for a change of operator to provide the security as required by the Act or by establishing a site-specific trust account prior to the operator change. The amount of financial security required will be provided for in rules and regulations promulgated by the commissioner of conservation and may be on individual wells or multiple wells and categorized by location. The Act sets the amount of required financial security for an individual well located on land of a depth equal to or less than 3,000 feet at \$2 per foot, and that the commissioner may increase the financial security by rules promulgated after Sept. 1, 2017. Additionally, the Act provides that financial security will not be required for wells declared to be orphaned by the commissioner and subsequently transferred to another operator, or wells drilled by an operator who has a certain plugging agreement with the office of

conservation.

**House Bill 819 by Representative Jim Morris (Act 666)** provides for the Oilfield Site Restoration Commission within the office of the secretary of the Dept. of Natural Resources and authorizes an issuer to issue bonds to raise funds to use for the authorized purposes of the commission, provided that annual debt service not be in excess of 50% of the pledged revenues estimated to be received in the calendar year the bonds are issued. The Act provides that the bonds may be secured by an irrevocable pledge and dedication of revenues consisting of the oilfield site restoration fees and penalties and any other revenue to the extent appropriated, provided that annual debt service not be in excess of 50% of the pledged revenues estimated to be received in the calendar year the bonds are issued, but shall not include site specific trust account monies.

The Act provides that the funds in the Oilfield Site Restoration Fund shall not be available to borrow, but the funds may be pledged.

The Act changes the fee from 1½¢ per barrel of oil and condensate to a fee based on the average New York Mercantile Exchange price of a barrel of crude oil as follows:

- (1) Price per barrel is \$60 or less, the fee is 1 ½¢.
- (2) Price per barrel is greater than \$60 and at or less than \$90, the fee is 3¢.
- (3) Price per barrel is greater than \$90, the fee is 4 ½¢.

The Act increases the Fund balances necessary to suspend or resume fee collections from \$10 million to \$14 million to suspend and from \$6 million to \$10 million to resume and provides that the funds generated from proposed law shall also not be counted in determining the balance of the Fund with such limitation.

The Act authorizes the Dept. of Natural Resources to use up to \$950,000 for the administration of the Oilfield Site Restoration Fund, an increase from \$750,000.

The Act requires \$1 million or 20% of the amount appropriated to the fund, whichever is less, from the Oil Field Site Restoration Fund be used to plug orphaned well drilled less than 3000 ft. wells in the Shreveport and Monroe office of conservation districts for three fiscal years beginning FY2016-2017 and through the end of FY 2018-2019.

*Second Extraordinary Session*

None

## Environment

by: *McHenry Lee*  
(225) 342-0734

During the last term, the Department of Environmental Quality underwent a reorganization that consolidated the Office of Environmental Assessment with other areas of the department. **Senate Bill 140 (Act 378)** by **Senator Walsworth** reestablishes the Office of Environmental Assessment as its own division within DEQ.

**Senate Bill 257 (Act 521)** by **Senator Walsworth** makes several changes to the Motor Fuels Underground Storage Tank. First, it raises the current cap of the fund of \$20 million to \$40 million. Secondly, it allows the secretary to use monies in the fund to issue certain low interest loans to upgrade and modernize certain motor fuels underground storage tanks.

**Senate Concurrent Resolution 77** by **Senator Thompson** (Sent to Secretary of State) extends the sunset provision of the Lake Providence Watershed Council until December 31, 2018.

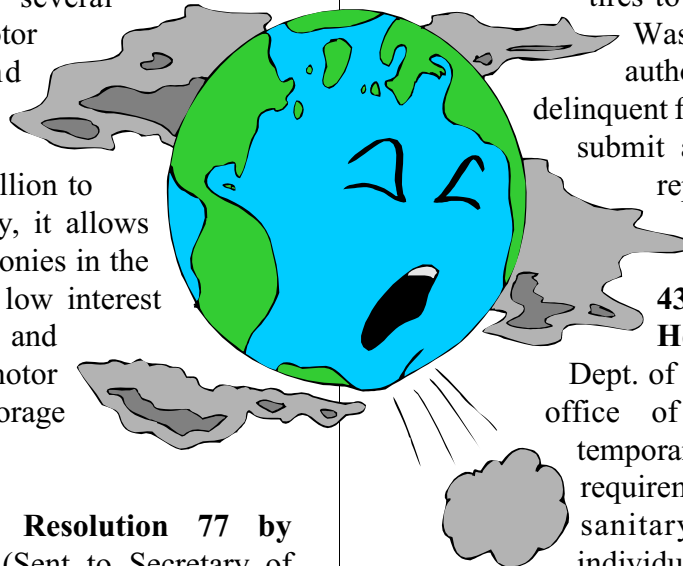
**Senate Concurrent Resolution 101** by **Senator Walsworth** (Sent to Secretary of State) requests the Department of Environmental Quality to study the removal of certain Reid vapor pressure requirements in the sixteen parishes in which they are enforced.

**Senate Concurrent Resolution 102** by **Senator Walsworth** (Sent to Secretary of State) requests the Department of Environmental Quality to study including above ground bulk storage facilities in the Motor Fuels Underground Storage Tank Trust Fund.

**House Bill 631 (Act 633)** by **Representative Miguez** adds all-terrain vehicle tires and spare tires to those covered by the Waste Tire Program and authorizes the secretary a delinquent fee for failure to timely submit a monthly waste tire report.

**House Bill 670 (Act 439)** by **Representative Hensgens** requires the Dept. of Health and Hospitals, office of public health, to temporarily waive applicable requirements of the state sanitary code regarding individual sewerage systems during the construction of a community sewerage system for properties located within the boundaries of any parish with a population between 6,800 and 6,900 people.

**House Bill 900 (Act 451)** by **Representative Leopold** authorizes an increase in fees collected by the Department of Environmental Quality.



**House Concurrent Resolution 118 by Representative Reynolds** (Sent to the Secretary of State) directs the Dept. of Environmental Quality to develop and implement a sampling plan for testing certain commercial open burn and open detonate facilities and report results to the oversight committees within six months.



## Ethics

by: Ashley Mitchel Carter  
(225) 342-2101

**House Bill 78 by Representative Pearson (Act 410)** requires the executive director or person holding the equivalent position of each state and statewide retirement system to file a Tier 2.1 personal financial statement just as certain board and commission members are ordered to file a financial disclosure statement with the Board of Ethics by May 15 of each year during which the person holds the public office or position and the year following the termination of the holding of such office or position.

**House Bill 144 by Representative G. Miller (Act 427)** changes the requirement of an affidavit for Tier 1 and Tier 2 personal financial disclosure statements to a certification in order to facilitate the electronic filing of personal financial disclosure statements. All elected officials and certain other specified officials and board and commission members are required to file a financial disclosure statement by May 15<sup>th</sup> of each year during which the person holds public office or position and by May 15<sup>th</sup> of the year following the termination of the holding of such office. The certification replaces the affidavit and must accompany the financial disclosure statement.

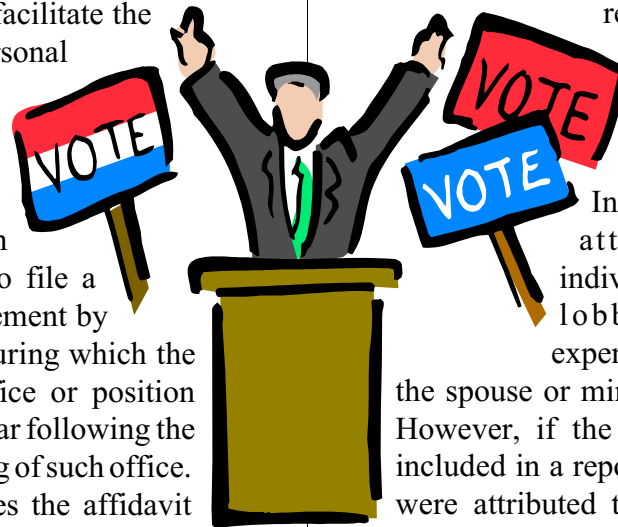
**House Bill 272 by Representative P. Smith (Act 87)** allows a public servant to accept complimentary admission to a fundraising

event held by or for the benefit of an educational institution or a nonprofit organization which conducts educational programs, excluding professional, semi-professional, or collegiate sporting events. The public servant does not have to be a program honoree, giving a speech at the event, or a panel member for a discussion occurring at the event as precious law allowed. As long as the event is for the benefit an educational purpose.

**House Bill 585 by Representative Broadwater (Act 416)** requires lobbyists to include in reports information concerning officials and family members who are invited but do not attend certain lobbying functions. Each lobbyist is required to file monthly

reports containing certain specified information regarding expenditures incurred for the purpose of lobbying. Including expenditures attributable to each individual official who is lobbied, as well as expenditures attributable to

the spouse or minor child of the official. However, if the name of an official is included in a report because expenditures were attributed to the official or to his spouse or minor child and the official, spouse, or minor child was invited but did not actually attend the function where the expenditures were made, the report shall include a statement indicating that the official, spouse, or minor child did not attend the



function.

**House Bill 727 by Representative G. Miller (Act 418)** specifies that the filing of certain supplemental lobbyist disclosure reports is not required if a change in representation occurs in the month of January and if the lobbyist timely renews his registration with accurate employment and representation information.

**House Bill 965 by Representative R. Johnson (Act 559)** removes disclosure requirement of business income from the state or a political subdivision for Tier 3 financial disclosure filers and instead requires the disclosure of each contract entered into by any business in which the filer or his spouse owns at least 10% with the state or a political subdivision, including the amount or value of the contract, the duration of the contract, and a description of the goods or services provided or to be provided pursuant to the contract.

**Senate Bill 64 by Senator Luneau (Act 518)** specifies that no public servant and no legal entity in which the public servant exercises control or owns an interest in excess of 25%, will receive anything of economic value for or in consideration of services rendered, or to be rendered, to or for any person during his public service unless such services are neither performed for nor compensated by any person from whom such public servant would be prohibited but an exception is provided that an attorney licensed to practice law in Louisiana may serve as a member of a civil service commission and provides that any such member will recuse himself from participating in any administrative hearing involving any municipal employee with whom he has an existing contractual relationship.

# Finance

by: Jay Lueckel  
(225) 342-0647

## 2016 FIRST EXTRAORDINARY SESSION

### FUNDS/FUNDING

#### **Senate Bill 1 by Senator Martiny (Act 2),**

provides relative to the definition of qualified event or qualified major event for the purposes of the Major Events Incentive Program established in prior law. New law adds "college tournaments and championships" to the definition of qualified event and clarifies that the National Collegiate Athletic Association includes any affiliated conference as one of the site selection organizations.

**Senate Bill 4 by Senator LaFleur (Act 3),** provides for the deposit and use of certain receipts of the Deepwater Horizon Economic Damages Settlement. Prior law provided that within 30 days of the receipt of economic damages proceeds from the Deepwater Horizon explosion and oil spill (DWH litigation), the treasurer is to make the following deposits: 1) 45 percent of each such receipt to the Budget Stabilization Fund until that fund reaches the amount statutorily mandated by existing law; 2) 45 percent of each such receipt to the Medicaid Trust Fund for the Elderly until \$700 million has been deposited into the fund; and 3) 10 percent of each such receipt to the

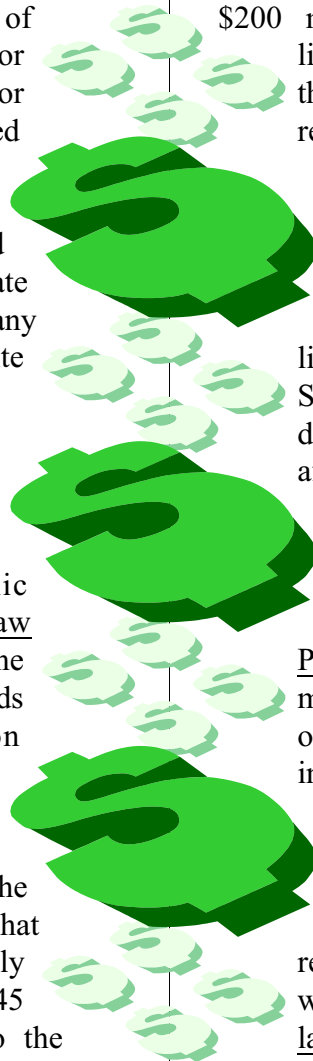
Health Trust Fund until \$30 million has been deposited into the fund.

New law creates the 2015-2016 Deficit Elimination Fund and provides that the first \$200 million in receipts for the DWH litigation received are to be deposited in the fund. Retains prior law for funds received in excess of the \$200 million.

#### **House Bill 4 by Representative Marcelle (Act 11),**

provides relative to the recovery of certain fees related to the suspension of an operator's license by the office of motor vehicles. Such fees are due within 60 days of the date of the notice to pay these fees and after that these fees shall be considered final delinquent debt. Such debts are referred to the office of debt recovery.

Prior law provided for the deposit of monies from debt collection by the office of debt recovery to be deposited into the Debt Recovery Fund. New law eliminates the Debt Recovery Fund and requires that monies collected by the office of debt recovery be transferred to the state agency which referred delinquent debt to the office within 30 days of the collection. New law further requires that the referring agency use the monies, subject to an appropriation, as they would have been, had the monies been timely collected.



**SUPPLEMENTAL APPROPRIATIONS**

**House Bill 122 by Representative Henry (Act 27)**, the Supplemental Appropriations Act, provides for supplemental appropriations and reductions in appropriations for Fiscal Year 2015-2016.

**2016 REGULAR SESSION****APPROPRIATIONS**

**House Bill 1 by Representative Henry (Act 17)**, the General Appropriations Act, provides for the ordinary operating expenses of state government for Fiscal Year 2016-2017. (See below for final total appropriations information.)

*Effective July 1, 2016.*

**House Bill 105 by Representative Henry (Pending Senate Finance)**, would have provided appropriations for the ordinary expenses of the Department of Justice and the expenditure of said appropriations for Fiscal Year 2016-2017. Appropriated \$4.8 million in state general fund (direct) and a total of \$63.8 million in interagency transfers, fees and self-generated revenues, statutory dedications, and federal funds to cover expenditures for the following programs: Administrative, Civil Law, Criminal Law and Medicaid Fraud, Risk Litigation, and Gaming.

**FUNDS/FUNDING**

**Senate Bill 177 by Senator Donahue (Act 576)**, provides for funds in the state treasury. Provides that each year the state treasurer shall submit at the August meeting of the Joint Legislative Committee on the Budget (JLCB) the status of fund transfers authorized to

eliminate budget deficits, specifically transfers which reduced constitutionally protected funds or dedications.

Further provides that the JLCB may make such studies and hold such hearings as it shall deem appropriate and necessary to review special funds and dedications of money in the state treasury.

*Effective June 17, 2016.*

**Senate Bill 253 by Senator Peacock (Pending House final passage)**, would have provided for a limitation relative to certain appropriations for hospitals associated with the LSU Health Sciences Center of Shreveport, the LSU Health Sciences Center at New Orleans, or the LSU Health Care Services Division.

Would have provided that in any fiscal year that monies are not specifically appropriated for the payment of certain legacy costs of any hospitals that are part of the LSU Health Sciences Center or the Health Care Services Division that have been privatized, it shall be the responsibility of the division of administration for payment of such costs.

Would have defined legacy costs and provides that any monies specifically appropriated for the payment of certain legacy costs shall not be used to displace, replace, or supplant appropriations for any other operational costs of the health sciences center.

**House Bill 409 by Representative Henry (Act 601)**, provides for the transfer, deposit, and use of monies among state funds.

*Effective June 17, 2016.*



## PROCUREMENT/CONTRACTS

**House Bill 454 by Representative Richard (Act 408)**, provides for review by the Joint Legislative Committee on the Budget prior to the effectiveness of certain professional, personal, consulting, and social service contracts.

*Effective June 6, 2016.*

**Senate Bill 407 by Senator Milkovich (Act 589)**, requires the publication of certain contracts and reports on the internet and creates the Contract Services Joint Legislative Task Force (task force) which is authorized to study, review, and make assessments on contracts.

The task force is composed of four members of the Senate appointed by the President and four members of the House appointed by the Speaker of the House. The task force shall meet no more than five calendar days in any fiscal year. It shall report annually to the Senate President, the Speaker of the House, and the Governor no later than 60 days before the regular session relative to any specific contracts or contract procedures that may require administrative action or may require legislative action.

*Effective July 1, 2016.*

## MISCELLANEOUS

**House Bill 717 by Representative Stokes (Pending Senate final passage)**, would have provided relative to the funding of the operations of the Department of Revenue (DOR).

Would have provided that beginning July 1, 2016, an amount equal to 1% of the state taxes and interest collected by or on behalf of the DOR be designated as self-generated revenue of the department.

Would have required, with respect to penalties collected by DOR, that from July 1, 2016, and thereafter, 25 percent of penalties be designated as self-generated revenue of DOR and the remaining balance of penalties be deposited into the state general fund.

Would have required the self-generated revenues to be used by DOR for the administration and collection of taxes and for operation of the department. Also allowed for certain exemptions from the collections.

**House Bill 1126 by Representative Chad Brown (Act 374)**, clarifies that the office of risk management and certain other insurance providers are exempt from the La. Insurance Code.

Exempts the office of risk management from being an assessable insured and prohibits any policy of property coverage purchased by the office from being subject to any regular or emergency assessment under prior law.

Retains prior law, but clarifies that the office, the Self-Insurance Fund, and commercial coverage transactions by the office on behalf of the state are not subject to the provisions of the La. Insurance Code.

*Effective July 1, 2016.*

**2016 SECOND EXTRAORDINARY  
SESSION**

**Appropriations**

**House Bill 69 by Representative Henry Act 14**, provides a Supplemental Appropriations Bill for operating expenses of state government for Fiscal Year 2016-2017. (See below for final total appropriations information.)

*Effective July 1, 2016.*

**FY 17 FINAL TOTAL  
APPROPRIATIONS (HB1 & HB69)**

After executive action, the 2016-2017 Fiscal Year appropriations as contained in HB 1 and HB 69 include a total of \$9.6 billion in state general fund (direct) spending and a total means of financing of \$27.9 billion (without double counting or contingencies) according to the division of administration's office of planning and budget. The proposed budget included 32,798 authorized positions which is 19,655 less than the Existing Operating Budget for the 2015-2016 Fiscal Year.

# Gaming

by: Ashley Menou  
(225) 342-0599

## 2016 Regular Session

### VIDEO POKER

**House Bill 189 by Representative Chad Brown (Act 129)** allows the owner of a qualified truck stop, except in Orleans Parish, to close the restaurant at the truck stop on Sundays in addition to statutorily defined holidays. Previously, the owner of a qualified truck stop was allowed to close the restaurant only on statutorily defined holidays.

**House Bill 196 by Representative Leger (Act 40)** changes the required fuel sales for certain qualified truck stops facilities. Previously, the number of video draw poker devices a truck stop could operate is based upon the average monthly fuel sales, calculated annually. Act 40 retains the fuel sale requirements for video poker device operation. However, Act 40 allows a truck stop that has met the fuel sale requirement for five consecutive years to operate the same number of devices it operated during those five years if they maintain the lowest tier of required fuel sales. For example, a truck stop operating fifty video poker devices that has met the one hundred thousand gallon average monthly fuel sales requirement for five consecutive years will be allowed to continue to operate 50



devices if it sells an average of fifty thousand gallons of fuel monthly.

**House Bill 226 by Representative Moreno (Act 307)** changes the penalty for licensed video poker establishments for certain violations. Previously, the third or subsequent time a licensed establishment was found to have a person under 21 operating video poker devices the establishment's license was automatically revoked. Act 307 removes the automatic revocation and provides for a hearing before the Gaming Control Board for third or subsequent violations. The Gaming Control Board will determine the penalty and may revoke or suspend the establishment's license or impose a fine.

**Senate Bill 394 by Senator Carter and Representative Marcelle (Act 488)** clarifies existing law regarding the prohibition of persons under 21 in gaming areas. Act 488 makes clear that persons under 21 are not allowed to enter or be permitted to enter the gaming area of official gaming establishments, but are allowed to enter non-gaming areas.

**RIVERBOAT GAMBLING**

**Senate Concurrent Resolution by Senator Johns (Sent to the Secretary of State)** creates the Louisiana Riverboat Economic Development and Gaming Task Force to look at Louisiana's laws regarding riverboat casinos and determine what changes, if any, need to be made to ensure that Louisiana remains competitive in the riverboat gaming market.

**LAND BASED CASINO**

**Senate Bill 295 by Senator Peterson (Act 483)** is designed to promote non-gaming economic development within, adjacent to, and around a gaming establishment. Act 483 requires the casino gaming operator to seek to maintain and grow the operating force or personnel level of the non-gaming operations around the casino. Act 483 defines the operating force and personnel level to include those employed by the casino and non-gaming entities and allows the non-gaming entities' employees and compensations to be credited towards the casino's statutorily required totals.

**BINGO**

**Senate Bill 188 by Senator Johns (Pending House Administration of Criminal Justice)** would have allowed charitable gaming establishments to conduct progressive mega jackpot bingo games and utilize electronic bingo card dabber devices to connect gaming locations. Additionally, portions of players' contributions would have been allowed to be used for consolation prizes or as part of prize pools for the progressive mega jackpot bingo games and not be considered part of the statutorily defined limit.

## Health & Hospitals

by: *Christine Arbo Peck*  
(225) 342-2114

### 2016 Regular Session

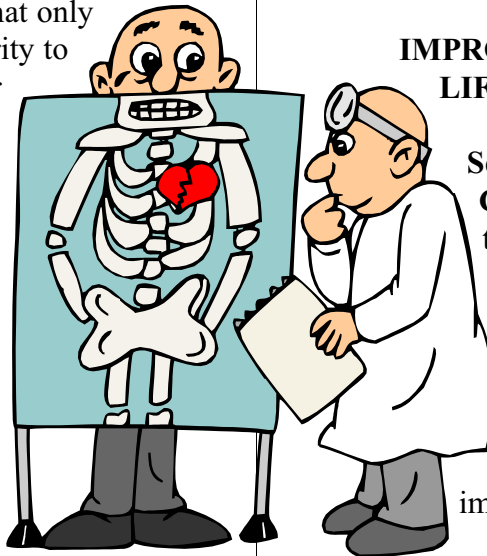
#### MEDICAL MARIJUANA

**Senate Bill 271 by Senator Mills (Act 96)** clarifies parameters for access to medical marijuana oil by updating the health conditions that makes a patient eligible to use the oil, establishing that only a physician will have authority to recommend use of the oil for his patient, and implements a deadline for right of first refusal for the LSU and Southern AG Centers to begin the production process.

#### ACCESS TO HEALTH CARE

**Senate Bill 291 by Senator Mills (Act 396)** allows a patient the opportunity to access direct physical therapy care without the requirement of a prescription.

**Senate Bill 187 by Senator Barrow (pending House final passage)** would have eliminated the requirement of a collaborative practice agreement between a physician and an advanced practice registered nurse (APRN), allowing direct patient access to patients choosing to see an APRN for primary care.



**Senate Bill 475 by Senator White (Act 493)** creates the ambulance transport alternatives task force to study a process for transporting patients to locations other than an emergency department if that patient can be appropriately cared for in the alternate location and to recommend a pilot program in East Baton Rouge Parish.

#### IMPROVING QUALITY OF LIFE

**Senate Bill 376 by Senator Colomb (Act 351)** establishes the Louisiana Family Caregiver Act to establish a process for appropriate discharge planning from a hospital to ensure that someone other than the patient is aware of needed measures for continued improvement.

**Senate Bill 360 by Senator Mills (Act 486)** updates the Louisiana Physician Order for Scope of Treatment (LaPOST) form which allows individuals to make important health care decisions with their physician before a medical crisis presents itself.

#### MEDICAID

**Senate Bill 117 by Senator Mills (Act 339)** provides that new drugs securing FDA approval that are covered by Medicaid

shall require prior authorization until such time as the Pharmaceutical and Therapeutics Committee can meet to make a determination on whether it will continue to require prior authorization or become preferred.

**Senator Bill 453 by Senator White (Act 350)** adds Medicaid fraud to list of crimes that could be prosecuted as state racketeering crimes.

**House Bill 441 by Representative Jackson (Act 250)** prohibits Medicaid managed care organizations from excluding physicians from their network solely because the physician is on probationary status with the Louisiana State Board of Medical Examiners.

**House Bill 498 by Representative Pope (Act 254)** implements a one year moratorium on Medicaid funded pediatric day health care facilities.

**House Bill 662 by Speaker Barras (Act 305)** establishes a Medicaid provider fee on emergency ground ambulance providers.

**House Concurrent Resolution 77 by Representative Montoucet (Secretary of State)** requests DHH to study and report to the legislature on improvement to the quality and management of the Medicaid managed care organizations prior to releasing any further requests for proposals to procure such contracts.

**House Concurrent Resolution 108 by Representative Hoffmann (Secretary of State)** requests DHH to develop a Medicaid transformation plan to improve the overall program with the inclusion of the newly expanded population.

## TELEMEDICINE

**House Bill 570 by Representative Schroder (Act 630)** allows a physician to use integrative audio without the requirement of video in cases where the physician has reviewed the patients medical record and determines that he is able to meet the same standard of care as if the care were provided in person. Establishes venue as the district court for the parish where the patient resides or the district court where the patient was physically located during the telemedicine service.

## HUMAN TRAFFICKING

**Senate Bill 90 by Senator Johns (Act 269)** expands crime of human trafficking to specific elements regarding trafficking of persons under the age of 21 engaged in commercial sexual activity and prohibits lack of knowledge of the persons age or consent by the person to be raised as a defense.

## ABORTION

**Senate Bill 33 by Senator Gatti (Act 196)** prohibit the sale of fetal organs and body parts resulting from an induced abortion.

**House Bill 386 by Representative Hoffmann (Act 97)** expands abortion waiting period from 24 hours to 72 hours after first presenting at the abortion facility and completing the initial screening and Woman's Right to Know mandates.

**House Bill 488 by Representative Jackson (Act 98)** requires a physician performing an abortion to be licensed to practice medicine in the state and also be currently board-certified in obstetrics and gynecology or family medicine or enrolled in

a residency program for obstetrics and gynecology or family medicine, when that resident performs or induces an abortion under the direct supervision of a physician who is board-certified in obstetrics and gynecology or family medicine.

**House Bill 606 by Representative Hoffmann (Act 304)** prohibits entities that perform abortions from receiving public funding for any purpose from institutions, boards, commissions, departments, agencies, officials, or employees of the state or its political subdivisions.

**House Bill 815 by Representative Stokes (Act 593)** prohibits post-abortion harvesting of fetal remains and requires the physician performing the abortion to provide for burial or cremation of such remains.

**House Bill 1019 by Representative Edmonds (Act 563)** prohibits abortion based on genetic abnormality.

**House Bill 1081 by Representative Johnson (Act 264)** enacts the Unborn Child Protection from Dismemberment Abortion Act to define and prohibit dismemberment abortions.

## PROFESSIONAL LICENSING BOARDS

**Senate Concurrent Resolution 65 by Senator Mills (Secretary of State)** creates a task force to study meaningful oversight of the professional health care licensing boards statutorily created within the Department of Health and Hospitals.

**Senate Bill 429 by Senator Barrow (Act 584)** reconstitutes the membership of the Louisiana State Board of Medical Examiners.

**House Bill 1161 by Representative Miller (Act 598)** reconstitutes the membership of the Louisiana State Board of Nursing.

## Homeland Security

by: JW Wiley  
(225) 342-2108

### 2016 First Extraordinary Session - NONE

#### 2016 Regular Session

**Senate Concurrent Resolution 47 by Senator Colomb (Sent to Secretary of State)** creates the State Capitol Accessibility Advisory Commission to study and make recommendations to the legislature for a strategic outlook to ensure the Americans with Disabilities Act of 1990, is implemented at the state capitol building and surrounding infrastructure.

Four bills were filed during the Regular Session addressing the issue of the REAL ID compliant special identification cards and driver's licenses, **Senate Bill 227 by Senator Yvonne Colomb (Act 496)**, **House Bill 702 by Representative Jimmy Harris (Act 505)**, **House Bill 701 by Representative Julie Stokes (Pending House Transportation, Highways, and Public Works)**, and **Senate Bill 348 by Senator Troy Carter (Pending Senate Transportation, Highways, and Public Works)**. Acts 496 and 505 require the Department of Public Safety and Corrections to provide the option of issuance of a REAL ID compliant driver's license or special identification card or of a driver's license or special identification card that is not REAL ID compliant. The driver's license or special

identification card must indicate whether it is REAL ID compliant or not. REAL ID compliant driver's licenses or special identification cards must comply with the REAL ID Act of 2005, P.L. 109-13, and federal rules adopted pursuant thereto.

### 2016 Second Extraordinary Session - NONE

During the First Extraordinary, Regular, and Second Extraordinary sessions, the Governor's Office of Homeland Security and Emergency Preparedness responded to numerous severe weather events, a barge collision, and a train derailment.

On March 13, 2016, the U.S. Department of Homeland Security's Federal Emergency Management Agency announced that federal disaster assistance would be available to the state in order to supplement state, tribal, and local recovery efforts in the area affected by severe storms and flooding that began on March 8, 2016. Initially, federal funding was made available to affected individuals in seven parishes. Over the course of the storms and flooding, federal funding was extended to affected individuals in thirty-seven parishes. In addition to individual assistance, federal funding was made available to local governments in the 37 affected parishes.





# Information Technology

by: Gary Schaefer  
(225) 342-1001

2016 1<sup>st</sup> Extraordinary Session

## TAX/SALES & USE

**House Bill 30 by Representative Leger (Act 22)** expands the definition of “dealer” to include persons who have certain substantial relationships and similarities with Louisiana retailers, engage in business using certain agreements with a Louisiana resident, or engage in business in Louisiana by certain affiliated agents in order to collect the 4% state sales and use tax. The objective of the act was to collect state sales tax on Internet sales. The act specifies that the presumption that a person is a dealer is rebuttable if the person can demonstrate that he cannot reasonably be expected to have gross receipts in excess of \$50,000 in the following 12 months. The act requires persons who meet the definition of a dealer to file tax returns and remittances electronically to the state and local taxing authorities. The act further provides that if the U.S. Congress enacts legislation authorizing states to require a remote seller to collect sales and use taxes on taxable transactions, the federal law shall preempt this act. [House Bills 6, 110, and 113 had similar requirements, but these bills did not pass the legislature.]

**House Bill 72 by Representative Shadoin (Act 72)** imposes a 3% state sales tax on telecommunication services and a 2% state sales tax on interstate and international telecommunication services.



2016 Regular Session

## APPROPRIATIONS/ANCILLARY

**House Bill 215 by Representative Henry (Act 47)** authorizes the commissioner of administration to transfer functions, positions, assets, and funds between and within departments in conjunction with the continuing assessment of the existing staff, assets, contracts, and facilities of each department, agency, program or budget unit's information technology resources, procurement resources, and human capital resources in order to optimize resources and provide cost savings. This authority does not apply to the Department of Culture, Recreation and Tourism, or any agency contained in “Elected Officials” of the General Appropriation Act.

## BUDGETARY PROCEDURES

**House Bill 298 by Representative Ivey (Pending Finance Committee)** would have established the Louisiana fiscal transparency

website, known as “La Checkbook”, as a source of information for state expenditures created and maintained by the state treasurer. The state treasurer would have developed a list of information that would have been redacted or reported in the aggregate to protect the confidentiality of the information or to protect a person's reasonable right to privacy.

### **CHILDREN/ABUSE**

**House Bill 97 by Representative Smith (Act 234)** requires the state child protection toll-free hotline number be posted on the website of every public school.

### **COMMERCIAL REGULATIONS**

**Senate Bill 251 by Senator LaFleur (Act 532)** provides that no person shall without legal authority knowingly interfere with, prevent, disable, or block the lawful creation of a Wi-Fi network via a personal hotspot. The bill provides a civil penalty fine of not more than \$10,000, for a violation, and each day access is blocked is considered a separate offense.

### **CRIME/PUNISHMENT**

**Senate Bill 73 by Senator White (Act 268)** provides the intentional crossing or traversing of a police cordon by an unauthorized person or an unmanned aircraft system (UAS) is a crime of resisting an officer and an obstruction of an officer's capacity. The cordoned area includes the airspace above the cordoned area.

**Senate Bill 124 by Senator Claitor (Became SB 472)** would have provided no person could operate an unmanned aircraft system (UAS) less than three hundred fifty feet above the ground level within the air space over

immovable property owned by another without the express permission of the owner of the immovable property. The bill would have provided fines for first, second, and subsequent offenses with maximum penalties of \$1,000 or imprisonment for not less than sixty days and not more than six months, or both, and forfeiture to the law enforcement authority of any unmanned aircraft seized in connection with the violation. The bill would have further provided the owner of the immovable property nor any person lawfully on the property would not be answerable for damages to the owner of any UAS captured or disabled with being operated violating this law. The property owners or any person lawfully on the property could have retained possession of any UAS captured or disabled while being operated in violation of this law without liability to the owner of the UAS.

**Senate Bill 472 by Senator Claitor (Pending Senate Final Passage Subject to Call)** would have added to the definitions of stalking, criminal mischief, unauthorized entry of an inhabited dwelling, unauthorized entry of a place of business, entry on or remaining in places or on land after being forbidden, the use of an unmanned aircraft system (UAS) over immovable or movable property. The bill would have excluded satellites and UASs operated by the federal or state government used for surveillance of specific activities.

**Senate Bill 141 by Senator Claitor (Act 529)** defines criminal trespass to include the operation of an unmanned aircraft system (UAS) in the air space over immovable property owned by another with the intent to conduct surveillance of the property or of any individual lawfully on the property.

**House Bill 19 by Representative Dwight (Act 539)** prohibits the use of an unmanned aircraft system (UAS) to conduct surveillance of, gather evidence, collect information about, or photographically or electronically record a school, school premises, or correctional facility. Whoever commits the crime of unlawful use of a UAS shall be fined not more than \$2,000, or imprisoned for not more than six months, or both. A second or subsequent offense results in a fine of not less than \$2,000 nor more than \$5,000, or imprisoned, with or without hard labor, for not more than one year, or both.

**House Bill 635 by Representative Hunter (Act 635)** amends crimes involving uninvited observation or invasion of privacy, “Peeping Tom”, to include the use of drones (UAS).

**House Bill 811 by Representative Armes (Pending House Administration of Criminal Justice Committee)** would have prohibited and provided criminal penalties for the use of an unmanned aircraft (UAS) for the purpose of conducting surveillance, gathering evidence, or collecting information about, photographing, or electronically recording an individual over privately owned immovable property, without consent. Whoever violated this law would have been fined not more than \$500, imprisoned for not more than six months, or both.

#### CRIMINAL/PROCEDURE

**House Bill 254 by Representative Havard (Act 308)** provides the possession and use of a cellular tracking device by anyone except a law enforcement or investigative officer, telecommunication employee, or an FCC employee is illegal, and provides procedures for law enforcement to obtain a court order to

utilize cellular tracking devices. The Act also provides penalties of a fine of not more than \$3,000, imprisonment with or without hard labor for not more than two years, or both. The Act further provides exceptions for persons tracking cellular phones that are part of their own plan, for tracking lost or stolen cellular phones, and adds that a person may disclose the existence of the cellular tracking device to his own counsel.

#### DISTRICTS/COMMUNICATIONS

**House Bill 805 by Representative Broadwater (Act 665)** provides for the levy of an emergency telephone service charge on certain communications systems, including Voice over Internet Protocol.

#### EDUCATION ACCOUNTABILITY

**Senate Bill 303 by Senator Morrell (Act 500)** requires a comprehensive computerized student information system to be used in collecting, storing, and reporting data in the office of juveniles justice schools. The office of juvenile justice shall ensure the implementation and deployment of the student information system in all office of juvenile justice schools no later than July 1, 2017. The student information system must meet all specifications articulated by the Louisiana Department of Education, BESE, and the office of technology services of the division of administration.

#### ELECTION CODE

**House Bill 890 by Representative Danahay (Act 281)** authorizes the secretary of state to develop and implement a pilot program for new voting technology and equipment.

**FIRE PROTECTION/FIRE MARSHAL**

**House Bill 952 by Representative Moreno (Involuntarily Deferred House Commerce Committee)** would have required all persons or business entities that book short-term rental structures, including marketing and renting such structures through an Internet website, to register with and submit building plans and specifications to the office of state fire marshal.

**FISCAL CONTROLS**

**House Bill 558 by Representative Jay Morris (Pending Senate and Governmental Affairs Committee)** would have required a contracting entity to submit information and documents to the legislative auditor prior to entering into a contract with a state agency. The bill also would have prohibited contract entities from receiving monies and would have prohibited state agencies from paying monies to or entering into contracts with contracting entities unless requirements were met. The bill further would have required the legislative auditor to compile the information submitted and post the information on his website.

**FISHING/COMMERCIAL**

**House Bill 638 by Representative Gisclair (Pending House Natural Resources Committee)** would have required the Department of Wildlife and Fisheries to promulgate rules for online commercial fishing licenses and would have required that new applications and renewal application be accepted.

**FUELS/LIQUID PETROLEUM GAS**

**House Bill 1059 by Representative Davis (Act 422)** authorizes the Louisiana Liquefied Petroleum Gas commission to print rules and regulations of the commission on its website.

**FUNDS/FUNDING**

**Senate Bill 458 by Senator LaFleur (Pending Finance Committee)** would have required each budget unit of the state that received an appropriation through the General Appropriation Act or the act appropriating funds for the ancillary expenses of state government or supplemental appropriations to report to the commissioner of administration all contracts for each budget unit for which funds were appropriated for the procurement of information technology hardware, software, and services.

**HEALTH CARE**

**Senate Bill 328 by Senator Claitor (Pending House Final Passage Subject to Call)** would have provided for the venue in suits arising out of telemedicine services in the district court where the patient resided or where the patient was physically located during the service and would have allowed the use of interactive audio without video if the provider determined that he was able to meet the same standard of care as if the healthcare services were provided in person.

**HEALTH SERVICES**

**House Bill 480 by Representative Jackson (Act 252)** requires conditions and authorizations relative to the practice of telemedicine in licensed healthcare facilities. The Act further requires physicians shall use

the same standards of care as if the healthcare services were provided in person for the practice of telemedicine.

**House Bill 570 by Representative Shroder (Act 630)** removes the requirement that a physician practicing telemedicine maintain an office or have an arrangement with another physician who maintains an office in this state and provides for consistency of telemedicine rules and regulations. The Act defines synchronous interactions as interactive technology that enables a healthcare provider and a patient at two locations separated by a distance to interact via two-way video or audio transmissions simultaneously. A physician practicing telemedicine must create a medical record on each patient and make the record available to the board of medical examiners upon request. Venue for suits is the district court for the parish in which the patient resides or where the patient was located during the telemedicine encounter.

#### **INTERIM EMERGENCY BOARD**

**House Bill 728 by Representative Stokes (Act 280)** provides for procedures and requirements for obtaining consent of the legislature for the appropriation or borrowing of funds for an emergency or the capital outlay priority changes and adjustments as it relates to the design and implementation of an accurate and secure system that allows each member to vote and return his ballot electronically. A member is not required to sign the ballot when he votes using an electronic system.

#### **INTERNET**

**Senate Bill 93 by Senator Colomb (Pending Judiciary C Committee)** would have

authorized fantasy football and other fantasy or simulation games by providing an exception for these games to certain gambling offenses.

**House Bill 676 by Representative Talbot (Pending House Administration of Criminal Justice Committee)** would have authorized fantasy football and other fantasy or simulation games by providing an exception for these games to certain gambling offenses.

#### **INSURANCE COMMISSIONER**

**Senate Bill 103 by Senator John Smith (Pending Senate Insurance Committee)** would have provided for notification to the commissioner of insurance of breaches of data security in the systems containing certain personal information relating to consumers.

#### **INSURANCE/GROUP-STATE**

**House Bill 997 by Representative Thibaut (Pending Appropriations Committee)** would have required the office of group benefits to publish on its website the summary of benefits and coverage and the plan documents for each self-insured group health plan offered by the office of group benefits.

#### **JOINT RULES**

**Senate Concurrent Resolution 15 by Senator Claitor (Pending Conference Committee)** would have required conference committee reports and digests to be made available to the legislators electronically on the joint legislative website for at least 24 hours prior to a vote by either chamber. The resolution would have excluded instruments that originate in the House of Representatives.

## JUVENILE JUSTICE

**Senate Bill 301 by Senator Morrell (Act 499)** requires the office of juvenile justice to tabulate, analyze, and publish electronically, on its website, on or before January 15 and June 15 of each year the complete set of statistical data relating to the Juvenile Justice Accountability and Cost Effectiveness Act of 2016.

## LAW ENFORCEMENT

**Senate Bill 54 by Senator Johns (Involuntarily Deferred House Administration of Criminal Justice Committee)** would have created a pilot program titled Statewide Motor Vehicle Theft and Uninsured Motorists Identification Program that used an automatic license plate recognition system to identify uninsured motorists and stolen vehicles. The bill would have provided for the creation of a central database that complied with all National Law Enforcement Telecommunications Systems (Nlets) and Federal Bureau of Investigation hosting and security standards. Data collected would not have been retained for more than 60 days except when being used as evidence of a violation. The data would not have been used for civil traffic enforcement, and any person who violated any provisions of the bill would have been imprisoned for not more than six months or fined not more than \$1,000.00 or both.

## LEGISLATIVE AFFAIRS

**House Bill 896 by Representative Garofalo (Act 674)** authorizes the clerical officers of the legislature to utilize the electronic system designed for interim emergency fund ballots in lieu of mail ballots for the transmission of

other ballots, petitions, and documentation to the members of the legislature.

## LEGIS POWERS/FUNCTIONS

**Senate Concurrent Resolution 32 by Senator Colomb (Pending Senate Final Passage Subject to Call)** would have amended the joint rules of the House and Senate to require the closed captioning of Internet broadcasts (webcasts) of legislative proceedings that occurred in the State Capitol building. The resolution would have further provided that the webcasts and captions be archived for at least three years and would have been available to the public for viewing through a link clearly identified on the Internet home page of the legislature. The resolution also would have provided that the joint rule would not apply when a technical problem or difficulty beyond the control of the legislature caused the failure to broadcast or record a legislative proceeding.

**Senate Concurrent Resolution 127 by Senator Colomb (Pending Senate Governmental Affairs Committee)** would have requested the Senate Committee on Senate and Governmental Affairs and the House Committee on House and Governmental Affairs to study the feasibility of conducting video conferencing of committee meetings (session and interim) and sessions of the legislature and would have authorized voting in absentia when a member had a physical disability, illness, or injury.

**Senate Concurrent Study Request 1 by Senator Colomb (Approved)** requests the Senate and Governmental Affairs Committee and the House and Governmental Affairs Committee to study the feasibility of providing an interpreter for the hearing

impaired and closed captioning of live webcast legislative proceedings.

## LIBRARIES

**House Concurrent Resolution 80 by Representative Steve Carter (Adopted Sent to Secretary of State)** establishes the Virtual Library Study Commission to conduct a study and make recommendations regarding the development of a statewide virtual library.

## LOCAL AGENCIES

**House Bill 1042 by Representative Bagley (Act 403)** authorizes clerks of court, sheriffs, district attorneys, and assessors to accept electronic payments for local charges. A fee for this service may be assessed and paid to the third party providing this service if disclosed to the payor to the transaction.

## MOTOR VEHICLES

**House Bill 233 by Representative Stokes (Became HB 1143)** would have provided for definitions relative to autonomous vehicles and the requirements for the testing, operating, and registering autonomous vehicles in Louisiana.

**House Bill 1143 by Representative Stokes (Act 318)** defines autonomous technology for purposes of Louisiana highway regulatory provisions.

## MTR VEHICLE/DRIVER LIC

**House Bill 481 by Representative James (Act 625)** provides for the issuance of a digitized driver's license and new requirements for the issuance of a driver's license that was renewed by mail or electronic

commerce. A digitized driver's license shall mean a data file available on any mobile device that has connectivity to the Internet through an application that allows the mobile device to download the data file from the Department of Public Safety or an authorized representative of the department and contains all of the data elements visible on the face and back of the license, and also displays the current status of the license. The cost of the application shall not exceed \$6.00. The display of a digitized driver's license shall not serve as consent or authorization for a law enforcement officer or any other person to search, view, or access any other data or application on the mobile device.

## PROCUREMENT

**House Bill 1009 by Representative Havard (Act 420)** requires the electronic submission of competitive sealed bids and proposals on a secure electronic interactive system as an alternative bidding option. The bill provides exceptions for public entities without high-speed Internet access, any parish with a police jury form of government and a population of less than 20,000, any city or municipality with a population of less than 10,000, and any public entity that is unable to comply with the electronic proposal submission provisions without securing and expending additional funding.

## PROPERTY/EXPROPRIATION

**House Bill 313 by Representative Garofalo (Act 108)** provides for disclosure of information to property owners whose property was subject to expropriation and authorizes the entity to identify the website where statutes can be read concerning expropriation.

## PUBLIC CONTRACTS

**Senate Bill 407 by Senator Milkovich (Act 589)** requires all contracts contained in the division of administration's annual report be published on the division's website. The bill also creates the Contract Services Joint Legislative Task Force to study, review, and make assessments on state contracts with an annual amount of \$50,000 or more. The task force is composed of four members from each chamber appointed by the president and speaker, respectively.

## PUBLIC MEETINGS

**Senate Bill 333 by Senator Colomb (Pending Senate Governmental Affairs Committee)** would have provided that committee meetings and chamber proceedings of the legislature be conducted by video conferencing pursuant to rules adopted by the respective bodies of the legislature. The rules adopted to implement this requirement would have governed the attendance and participation of legislators, quorums for committees and chamber proceedings, and public participation. A quorum would have been needed to be present in person at the location at which the meeting or session was noticed to take place. The bill also would have provided when a legislator of either chamber could not attend a committee meeting or chamber session due to illness or injury, that legislator could have cast a record vote in absentia electronically over the Internet with a personalized Vote-ID card.

**House Bill 162 by Representative Edmonds (Failed House Final Passage)** would have prohibited members of certain public bodies from engaging in communication (e.g., email, text messages) with a quorum of the members

of the public body unless such communication was contemporaneously visible or audible to the public. Any member who knowingly and wilfully violated the law would have been subject to a civil penalty of \$100.

## REAPPORTIONMENT

**House Bill 369 by Representative Bishop (Act 623)** requires each local governing body to submit an electronic shapefile (or if not possible, a comma delimited block equivalency import file) reflecting its redistricting plan to the secretary of state within ten days of enactment.

## REVENUE DEPARTMENT

**House Bill 756 by Representative Abramson (Act 446)** requires the electronic filing of all schedules and invoices for claims for refunds for overpayment of sales tax if the claim for a refund is \$25,000 or more or if the claim for a refund is made by a tax preparer on behalf of the taxpayer, regardless of the amount of refund.

## SCHOOLS/CHARTER

**House Bill 502 by Representative Smith (Pending House Education Committee)** would have required BESE, prior to a determination relative to a Type 2 charter proposal, to prepare and publish on its website a fiscal impact study relative to the fiscal impact such proposed charter school would have on the local school district.

## SECRETARY OF STATE

**House Bill 414 by Representative Bishop (Pending Senate and Governmental Affairs Committee)** would have authorized the



secretary of state to promulgate rules and forms for the voluntary registration of individuals who served as demographers for the development of reapportionment or redistricting plans in Louisiana.

**House Bill 876 by Representative Leger (Act 554)** provides for online filing of documents required to be filed with the secretary of state through the secretary of state's commercial online computer system. Any filing by an individual from a parish with a population of 100,000 or less may be filed by facsimile or mail.

#### **SEX OFFENSE/REGISTRY**

**House Bill 540 by Representative Henry (Pending Appropriations Committee)** would have provided for the distribution of monies in the Sex Offender Registry Technology Fund. Balances in the fund would have been appropriate to the Department of Justice, office of the attorney general (\$400,000), and the parish sheriffs (\$150,000) for utilization of a computer system to register sex offenders.

**House Bill 1146 by Representative Henry (Act 375)** authorizes limited disclosure of telephone numbers, email addresses, online screen names, static Internet protocol addresses, and other online identities associated with a person who is required to register as a sex offender for the purpose of identifying or monitoring a registered offender.

#### **STATE DEPARTMENTS**

**House Bill 947 by Representative Pope (Act 557)** requires annual submission to each member of the legislature an electronic report

that contains a full organizational chart for the entity that shows each staff position, whether filled or vacant, and the current salary of the person occupying each filled position. This information is required from the State Board of Elementary and Secondary Education, Department of Economic Development, Department of Elderly Affairs, Department of Culture, Recreation and Tourism, Department of Environmental Quality, Department of Health and Hospitals, Louisiana Workforce Commission, Department of Natural Resources, Department of Public Safety and Corrections, Department of Revenue, Department of Children and Family Services, Department of Transportation and Development, Department of Wildlife and Fisheries, Department of Agriculture and Forestry, Department of Insurance, Department of Justice, Department of Public Service, Department of State, Department of Treasury, and Department of Veterans Affairs.

#### **STUDENT DISCIPLINE**

**House Bill 372 by Representative Bouie (Pending House Education Committee)** would have required local public school boards to maintain a website and to publish on the website information relative to student discipline and other matters in an easily understandable format.

#### **TAX/INCOME-INDIV/RETURN**

**House Bill 295 by Representative Hilferty (Pending Ways and Means Committee)** would have required the annual payment of use tax due on property and services bought from a remote seller who did not collect the tax due at the time of sale. The bill also would have required that the individual income tax return form contain various checkoff boxes

with corresponding amounts of estimated use tax to assist a taxpayer in designating and attesting to the amount of his use tax liability.

## **TAX/SALES & USES**

**House Bill 96 by Representative Pugh (Pending Ways and Means Committee)** would have provided for the collection of the additional four percent state sales and use tax by a remote dealer, would have expanded the definition of dealer to include persons who have certain substantial relationships and similarities with Louisiana retailers, engaged in business using certain agreements with a Louisiana resident, or who engaged in business in Louisiana through the use of certain affiliated agents.

**House Bill 294 by Representative Hilferty (Pending Ways and Means Committee)** would have required catalog or online retailers not domiciled in Louisiana to provide notice to Louisiana purchasers that state sales and use taxes may be due on their purchases.

**House Bill 1037 by Representative Connick (Pending Ways and Means Committee)** would have required annual notifications to purchasers and the Department of Revenue by remote retailers who made sales in Louisiana, excluding retailers with annual sales less than \$50,000.

**House Bill 1121 by Representative Leger (Act 569)** requires notifications to the purchaser, at time of sale, and annually to the Department of Revenue that taxes are due on the purchase of items from remote retailers who make sales in Louisiana in excess of \$50,000 per year. By January 31<sup>st</sup> of each year, a remote retailer shall send to each Louisiana purchaser who has purchased property or

services from the retailer in the immediately preceding calendar year a notice containing the total amount paid by the purchaser for purchases in that preceding calendar year. The annual notice sent to the purchaser shall be sent by first class mail, certified mail, or electronically, according to the choice of the purchaser. By March 1<sup>st</sup> of each year, a remote retailer who made retail sales of tangible personal property or taxable services to Louisiana purchasers in the immediately preceding calendar year shall file with the secretary a statement for each purchaser that includes the total amount paid by the purchaser to that retailer in the immediately preceding calendar year. Sales in excess of \$100 require electronic filing of statements.

## **TELECOMMUNICATIONS**

**House Bill 866 by Representative Havard (Pending House Commerce Committee)** would have enacted the Louisiana Wireless Communications Infrastructure Deployment Act to ensure all citizens in the state have true access to advance technology and information.

**House Bill 1040 by Representative James (Pending House Commerce Committee)** would have required that any smartphone manufactured, sold, or leased in this state be capable of being decrypted and unlocked by either its manufacturer or its operating system provider without the necessity of obtaining the user passcode. The bill would have provided that sellers or lessors in violation were subject to a civil penalty of \$2,500 for each violation.

**House Bill 1118 by Representative Hunter (Pending Senate Conference)** would have authorized certain fiduciaries to exercise control respecting the digital property of decedents and other persons.

*2016 2<sup>nd</sup> Extraordinary Session*

No legislation introduced for this topic during the second extraordinary session.

# Insurance

by: Cheryl Horne  
(225) 342-0604

## 2016 Regular Session

**Senate Bill 258 by Senator Luneau (Act 206)** requires that any health insurance plan or policy issued or renewed in this state on or after January 1, 2017 provide coverage for the costs of refilling a topical ophthalmic prescription. The Act prohibits denial of a refill request under the following circumstances:

1. The refill for a 30 day supply is requested between 23 and 30 days from the original date the prescription was distributed to the insured or the date the most recent refill was distributed to the insured, whichever is later.
2. The refill for a 60 day supply is requested between 46 and 60 days from the original date the prescription was distributed to the insured or the date the most recent refill was distributed to the insured, whichever is later.
3. The refill for a 90 day supply is requested between 69 and 90 days from the original date the prescription was distributed to the insured or the date the most recent refill was distributed to the insured, whichever is later.

The prescriber must indicate on the original prescription that additional quantities are

necessary. The original prescription cannot exceed the number of additional quantities necessary for treatment.

The refills are limited to a quantity not to exceed the remaining dosage initially approved for coverage, provided the limited refills do not limit or restrict coverage with regard to any previously or subsequently approved topical ophthalmic prescription.

**Senate Bill 266 by Senator Long (Act 174)** pertains to the licensing of insurance claims adjusters. The bill limits the exemption from examination requirements to a person who is currently licensed in another state or if the application is received within 90 days of the cancellation of the applicant's previous claims adjuster license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records or records maintained by the National Association of Insurance Commissioners (NAIC), its affiliates, or subsidiaries, indicate that the adjuster is or was licensed in good standing.

In this newly enacted legislation, the commissioner is authorized to waive the workers' compensation examination requirement for an individual who has three years of verifiable experience adjusting workers' compensation claims within the preceding five years, provided the application is received on or before August 1, 2017.



**Act 174** provides that a claims adjuster may receive qualification for a license in one or more of the following lines of authority:

- (1) Property and casualty.
- (2) Workers' compensation.
- (3) Crop.
- (4) Any limited line for which the commissioner issues a limited license.

**Senate Bill 375 by John Smith (Act 193)**

Prior law provided that provisions concerning the authority and funding of the insurance fraud investigation unit in the Department of Public Safety and Corrections will be null, void, and unenforceable on July 1, 2016. **Act 193** extends these provisions until July 1, 2018.

Prior law provided that the Sledge Jeansonne Louisiana Insurance Fraud Prevention Act, which allows the attorney general to institute civil proceedings against any person who commits certain fraudulent insurance acts, terminates August 1, 2016. **Act 193** extends these provisions until August 1, 2018.

**House Bill 798 by Representative Talbot (Act 258)**

creates a limited lines license to sell property insurance for property self-stored in a self-storage facility. **Act 258** provides for procedures for issuing this limited lines license. The license shall be subject to the same license and fee requirements as limited line producers. Procedures for revocation of the license and training to obtain a license are also clarified.

**House Bill 1140 by Representative Broadwater (Act 265)** prohibits managed care organizations from terminating providers from their network because the provider refuses to participate in all health plans and provider networks offered by the organization, or requiring a provider to participate in all health plans offered by the organization as a condition of the provider contracting with the organization.

# Judiciary

by: Tom Wade  
(225) 342-9169

## 2016 First Extraordinary Session

### **Budget Adjustments**

The legislature was called into extraordinary session by the governor shortly after he took office in January to address the deficit the state faced during the current fiscal year. Each of the branches of state government had to face reductions in their current operating budgets. **House Bill 118 by Representative Barras (Act 19)** authorized and directed the Chief Justice of the Louisiana Supreme Court to reduce the appropriations from state general funds for the Louisiana Judiciary for FY 2015-2016 in the amount of \$3,991,120.

## 2016 Regular Session

### **Appropriation**

In a continuing effort to address the deficit, the funds appropriated to pay the operating expenses of the judiciary represented a ten percent cut to the previous year's budget. **House Bill 616 by Representative Henry (Act 67)** appropriated funds for FY 2016-2017 for the ordinary operating expenses of the judicial branch of government with total funding of \$186,713,592. It further provided for a reduction of the appropriations out of the State General Fund (Direct) contained in the Act by a total amount of \$23,058,240 pursuant to a plan adopted by the Judicial Budgetary Control Board or as approved by the La. Supreme Court. It also prohibited such adopted plan from impacting the funding for

legal representation of children in child protection cases.

### **Court Costs and Fees: Use and Collection**

**House Concurrent Resolution 133 by Representative Jackson (Sent to Secretary of State)** requests the Judicial Council to study and make recommendations to the legislature regarding the use and collection of court costs and fees and the operational needs of the judicial system, to develop and recommend best practices for the use and collection of court costs and fees, and to limit the adoption of any new or increased court cost or fee except when presented with exceptional or emergency circumstances until 60 days after the adjournment of the 2017 Regular Session.

### **Reentry Courts**

**House Bill 347 by Representative Danahay (Act 221)** authorizes the 14th Judicial District Court, 21st Judicial District Court, and the 32nd Judicial District Court to establish a reentry division of court. Currently, the following courts are authorized to create reentry divisions to be responsible for developing a workforce development sentencing program with specific qualifications and requirements: 1st Judicial District Court, 11th Judicial District Court, 15th Judicial District Court, 19th Judicial District Court, 22nd Judicial District Court, 24th Judicial District Court, 25th Judicial District Court, 26th Judicial District Court,

and the Criminal District Court for the parish of Orleans.

### **2016 Second Extraordinary Session**

#### **Appropriation**

In a continuing effort to address the state's deficit, a second extraordinary session was called by Governor Edwards following the 2016 regular session. **House Bill 68 by Representative Leger (pending House Appropriations)** provides a supplemental appropriation for the Judiciary of \$15,983,891. **House Bill 69 by Representative Henry (Act 14)** provides a supplemental appropriation for the Judiciary of \$5,000,000. It provides for an allocation of \$3,045,170 to the Court Appointed Special Advocates (CASA) program and an allocation of \$12,609,755 for drug courts, out of the combination of monies appropriated by this bill and those appropriated by the Act which originated as House Bill 616 of the 2016 Regular Session.

## Juvenile Justice

by: Ben Huxen  
(225) 342-9675

### 2016 Regular Session

**Senate Bill 324 by Senator Morrell (Act 501)** created the Raise the Age Louisiana Act of 2016, which raises the age for being tried in the adult criminal justice system from 17 years old to 18 years old for nonviolent offenses. Only cases occurring on or after July 1, 2018 will be impacted. Prior to this Act, Louisiana was one of only nine states that still included 17 year olds in the adult criminal justice system. The Act also creates the Louisiana Juvenile Jurisdiction Planning and Implementation Council to develop programs that help reduce the number of youths at each stage in the juvenile justice system.

**Senate Bill 301 by Senator Morrell (Act 499)** created the Juvenile Justice Accountability and Cost Effectiveness Act of 2016 as a system to monitor and implement systems for better accountability and cost-effectiveness in the juvenile justice system. It requires the Office of Juvenile Justice (OJJ) to collect, maintain, and regularly report statistical data on the services it provides, the youth it serves, the outcomes experienced, and the funds expended.



**Senate Bill 302 by Senator Morrell (Act 617)** created the Safe and Fair Return Act of 2016, which institutes a series of reforms in the juvenile justice system to ensure that every child in the juvenile justice system custody has qualified legal counsel. It does so by creating the Safe Return Representation Program to provide qualified legal representation to indigent children and promote the safe return and reentry for youth in custody. It also requires that an in-person review occur not more than six months after a child is committed to the custody of the juvenile justice system, unless waived by counsel, to ensure the child is receiving proper treatment and services.

**Senate Bill 303 by Senator Morrell (Act 500)** requires that OJJ schools be included in the state school and district accountability program. This legislation aims to set clear quality standards and impose real accountability for the education of youth in custody.

**House Bill 264 by Representative Mack (Reengrossed)** would have provided for parole eligibility for persons convicted of first or second degree murder who were under the age of 18 years at the time of the commission of the offense if the person met certain conditions, including the condition that he serve at least 30 years of the sentence



imposed. The conference committee report was adopted by the House of Representatives but was not taken up by the Senate. The impetus for the bill was a United States Supreme Court ruling against the State holding that juvenile homicide offenders serving mandatory life without parole must be given the opportunity to show that their crime did not reflect irreparable corruption.

## Labor/Employment

by: *Carla Roberts*  
(225) 342-9541



### REGULAR SESSION:

**Senate Resolution 4 by Senator White (Sent to the Secretary of State)** urges and requests Governor John Bel Edwards to issue an executive order directing state agencies and local governments to continue to support the Louisiana State Use Program, managed by Employment Development Services. The legislature in 1984 enacted legislation whereby a preference is to be given by all governmental bodies in purchasing products and services from a state supported skill development center that employs persons with severe disabilities. The program is referred to as the Louisiana State Use Program and its provisions are applicable to all state and local governments, educational institutions, and other political subdivisions of Louisiana. The Louisiana State Use Program is patterned after similar programs utilized by at least 20 other states as well as the federal government with the primary purpose of employing persons with severe disabilities in transitional jobs which give the disabled employees marketable skills, thereby allowing them to be employed in the private sector.

**Senate Bill 72 by Senator Peacock (Act 190)** authorizes an employer to establish a policy granting preferences in hiring to a veteran or a certain family member of a veteran. **Act 190** authorizes a private employer to adopt an employment policy giving preference in hiring to the following persons:

- (1) An honorably discharged veteran.
- (2) The spouse of a veteran with a service-connected disability.
- (3) The unremarried widow or widower of a veteran who died of a service-connected disability.
- (4) The unremarried widow or widower of a member of the U.S. Armed Forces who died in the line of duty under combat-related conditions.

The Act provides that if a company voluntarily elects to participate in the established veterans preference policy, the preference granted will not be considered a violation of any state or local equal employment opportunity law.

**House Bill 1142 by Rep. Horton (Act 463)** is another Act designed to benefit veterans and their families. **Act 463** provides that a spouse of a military service member will not be disqualified for unemployment compensation benefits if the spouse resigns employment to relocate with their military service member spouse pursuant to an order of permanent change of station. **Act 463** provides that an application for unemployment compensation will still be disqualified if the spouse of the military member leaves their employment under any of the following circumstances:

- (1) Left his employment without good cause attributable to a substantial change in employment.
- (2) Is employed by a staffing firm and does not contact the staffing firm for reassignment after completing an assignment.
- (3) Has been discharged for misconduct connected with his employment.
- (4) Fails to apply for available, suitable work when so directed by the administrator, or to accept suitable work when offered to him, or to return to his customary self-employment when so directed by the administrator.
- (5) Is unemployed because he is participating in a labor strike.
- (6) Is seeking unemployment compensation from another state.
- (7) Makes a false statement or representation to obtain or increase his benefits.
- (8) Has been discharged for the use of illegal drugs.
- (9) Has not, after participation in a work-release program, worked and earned wages for insured work.

**Act 463** provides that benefits paid to an employee who leaves his job pursuant to his or her spouse's permanent change of station order will not be charged against the experience rating of an employer from whom an employee leaves to relocate but will be recouped as a social charge to all employers

participating in the fund.

**Senate Bill 44 by Senator Gatti (Act 470)** seeks to rectify a problem whereby an employer's workers' compensation insurer had paid money to a claimant and recouped part or all of the money paid out from a third party yet failed to credit the employer with the recoupment. **Act 470** provides that the credit will be used by the insurer in the calculation of the loss experience modifier specifically promulgated by and in accordance with the rules of the National Council on Compensation Insurance (NCCI), and will be applied in determining the annual premium paid by the employer for workers' compensation insurance. **Act 470** further provides that the group self insurance fund will apply the loss experience modifier authorized in current law that is applicable to group self-insurance funds.

**Senate Bill 436 by Senator Troy Carter (failed on the Senate Floor)** would have made it unlawful for any employer to refuse to hire, discharge, or otherwise discriminate with respect to compensation, terms, conditions of employment, segregate, limit, or classify employees or applicants for employment due to an individual's actual or perceived sexual orientation, gender identity, or gender expression.

**Senate Bill 347 by Senator Troy Carter (failed on the Senate Floor)** would have allowed parishes, cities, and municipalities to set its own rates of minimum wage and minimum vacation and sick leave days which must be provided by employers which are located within the boundaries of the local governmental subdivision. The bill would have allowed the local governments to set the minimum wage higher than the state or

federal minimum wage but not lower than the state or federal minimum wage.

**Senate Bill 269 by Senator Peterson (passed the Senate Committee on Labor and Industrial Affairs but failed in the Senate Committee on Finance)** would have established a state minimum wage and sets it at \$8.00 per hour beginning Jan. 1, 2017 and would have increased the state minimum wage to \$8.50 per hour beginning on Jan. 1, 2018. **S.B. 269** would have provided for the Workforce Commission to fine an employer where the employer did not comply by paying the higher rate by assessing a civil fine, or penalty, of not less than \$100 and not more than \$500 per employee, per day, for each violation for failure to pay minimum wage. The fines would have been paid into a newly created fund within the Employment Security Administration Fund. The fund would have been used to pay for all costs associated with the enforcement of the provisions of the higher minimum wage as determined to be necessary by the executive director.

**Senate Bill 254 by Senator Morrell (failed in the House Committee on Labor and Industrial Affairs)** would have provided a further enforcement mechanism regarding the state's current law which prohibits discrimination based upon sex. **S.B. 254** would have prohibited private employers from discriminating against an employee on the basis of sex by paying wages to an employee at a rate less than that paid by the same employer to another employee of a different sex for the same or substantially similar work on jobs that require equal skill, effort, education, and responsibility and involve the same or equal working conditions including time worked in the position.

# Legislative Affairs

by: *Laura Gail Sullivan*  
(225) 342-1196

## 2016 Regular Session

### RULES

**Senate Resolution 87 by Senator Martiny (Sent to the Secretary of State)** amended the Senate rules to require a public employee appearing before a Senate committee as a designee of an elected official to identify him- or herself and the elected official for whom the person is the designee before being allowed to present testimony. The rule requires the designee to file, on forms promulgated the secretary of the Senate, a written statement from the official evidencing the designation and a written certification that the person is acting in the performance of his or her official duties.

**Senate Concurrent Resolution 15 by Senator Claitor (Pending in Conference Committee)** would have amended the joint rules of order to require a conference committee report to lie over in the house in which the vote will occur for at least 24 hours after the report is received by the chief clerical officer of that house. The rule would have mandated that certain information be included in the digest and that the report and digest be made available on the joint website at least 24 hours before a vote. The rule would have allowed either house to waive the requirements of this rule by majority vote of the elected members of the house. **Senate Resolution 19 by Senator Claitor (Pending Senate Committee on Senate and Governmental Affairs)** contained similar

provisions regarding the 24-hour waiting period. In addition, the resolution would have required an unofficial enrollment of the bill or joint resolution that is subject of the conference committee report, highlighting any language being changed or added by the conference committee.

### SESSIONS

**Senate Bill 25 by Senator Morrell (Subject to call – Senate final passage), Senate Bill 163 by Senator Peterson (Subject to call – Senate final passage), and House Bill 1139 by Representative Richard (Failed House final passage)** each proposed to amend the constitution to limit the duration of the annual regular session of the legislature to 45 legislative days during a period of 60 calendar days.

### LEGISLATIVE AGENCIES

**Senate Bill 372 by Senator Peacock (Act 176)**, based on the constitutional mandate that the prefiling deadline for retirement bills is 45 days prior to the regular session, requires the actuarial note for any bill so prefiled to be completed and filed at least five days prior to the convening of that session.

**House Bill 141 by Representative Leger (Act 353)** requires each actuarial note to include a reliable estimate of the fiscal and actuarial effect of the proposed change on the costs to or revenues of the retirement system and the estimated fiscal impact of the measure

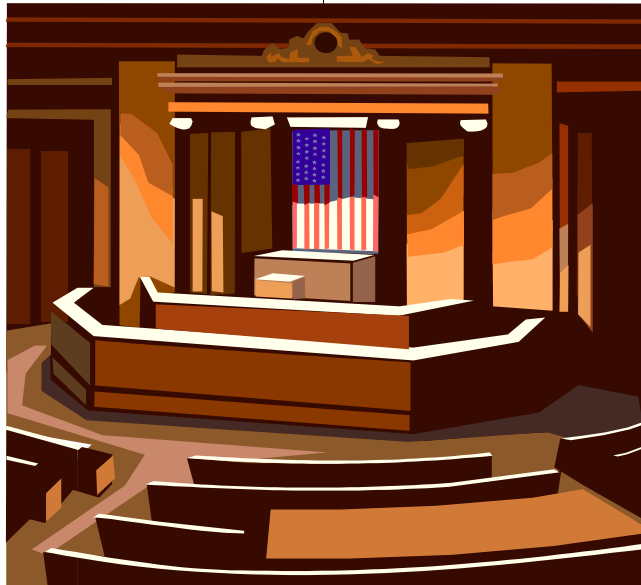
on governmental entities including the effect on federal, state, and local funds.

**Senate Bill 395 by Senator Ward (Act 536)** requires all meetings of the Louisiana State Law Institute to be held in a public building in an area open to the public. The Act specifies that the meeting space must be available without charge or at a reduced cost and requires a majority of all meetings conducted each year to be held in Baton Rouge, with preference given to meeting at LSU. The Act provides that the institute is subject to the open meetings law and the public records law.

## ETHICS

**House Bill 585 by Representative Broadwater (Act 416)** specifies that, for the purposes of lobbyist expenditure reports, the aggregate amount or per-occasion amount attributable to a legislator or the spouse or minor child of the legislator or to a public servant, other than the legislator, in the legislative branch of state government, or to an executive branch official or the spouse or minor child of that official shall not include any expenditure made at an event if that person did not attend.

**House Bill 898 by Representative Gregory Miller (Act 450)**, with regard to the prohibition and on using campaign funds for purchasing a motor vehicle, specifies that the term "motor vehicle" shall not include a trailer as that term is defined in present law.



## Local Government

by: *Michael Bell*  
(225) 342-1175

### 2016 Regular Session

#### ECONOMIC DEVELOPMENT

**Senate Bill 137 by Senator Barrow (Act 528)** expands the boundaries of the Baton Rouge North Economic Development District to include a more northwest portion of East Baton Rouge Parish and authorizes the governing authority of East Baton Rouge Parish to levy and collect a two percent rent or fee charged for the occupancy of hotel rooms located within the boundaries of the district.

#### LOCAL AGENCIES

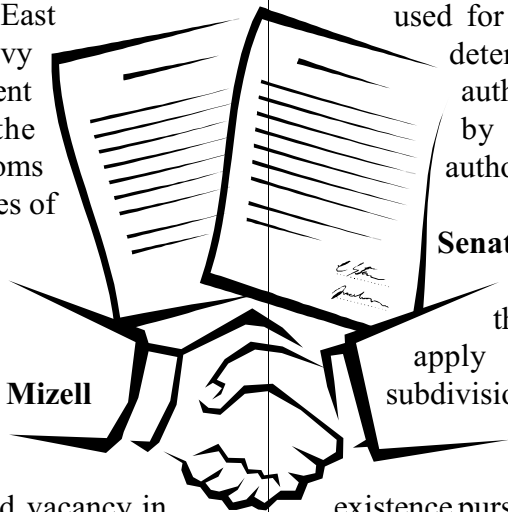
**Senate Bill 373 by Senator Mizell (Act 513)** requires the governor appoint replacements for each board vacancy in the same manner that the original board members were appointed, prohibits the board from having authority to expropriate by eminent domain any additional immovable property, and requires that all board meetings be conducted pursuant to the open meetings law and that notice of all meetings of the board are posted on the website maintained by the parish governing authority of Washington Parish no later than 72 hours prior to the meeting.

#### LOCAL FINANCE

**Senate Bill 32 by Senator Boudreaux (Act 13)** authorizes the city of Carencro, subject to voter approval, to levy an additional sales and use tax not to exceed 1% which is to be collected at the same time and in the same manner as other sales and use taxes and provides that the proceeds of the tax may be used for such lawful purposes as are determined by the governing authority of the city and permitted by the election proposition authorizing the levy of the tax.

**Senate Bill 207 by Senator Colomb (Act 520)** provides that the legislature intends to apply current law to political subdivisions operating under a home rule charter or plan of government adopted or in existence pursuant to and under the authority of the Louisiana Constitution of 1974 to the extent that governments operating under home rule charters are subject to the law.

**Senate Bill 412 by Senator Troy Brown (Act 514)** creates a special district within any municipality governed by a home rule charter and with a population between 7,000 and 8,000 persons based upon the latest federal decennial census to provide for cooperative economic development between the district, the city, and the owner or owners of businesses and other property within the district in order to provide for costs related to



infrastructure within the district as determined by the board of commissioners of the district.

**Senate Bill 464 by Senator Mills (Act 490)** provides for certain municipalities to create sales tax districts consisting of a portion of their respective municipalities and provides for the districts to levy and collect an additional one percent sales and use tax upon the sale at retail, the use, the lease or rental, the consumption and the storage for use or consumption of tangible personal property and on sales of services, if approved by a majority of the electors of the district voting thereon in an election held for that purpose.

#### MUNICIPALITIES

**Senate Bill 28 by Senator Perry (Act 73)** provides an additional exception by authorizing a person residing outside the corporate limits of the town of Gueydan, but within Ward 3 of Vermilion Parish, to be elected chief of police of the town.

**Senate Bill 384 by Senator Cortez (Act 177)** provides regarding the Lafayette Police Department that the filling of a vacancy based upon promotional seniority shall apply to the ranks of lieutenant and above only, and corrects the name of the list used when a class of positions is abolished to the reinstatement list.

**Senate Bill 396 by Senator Johns (Act 178)** provides that an employee who is finally discharged or resigns from his position forfeits all accumulated seniority, and that an employee who is suspended and returns to his position immediately following the suspension does not forfeit his seniority accumulated to the date of his suspension, but does not earn credit for the lost time in future computations.

Additionally, regarding the Lake Charles Police Department, any employee who served in the US armed forces upon his return from training or active duty deployment shall be allowed admission to a promotional test he would have otherwise been qualified and eligible for when the date the examination took place was during his official training, active training exercise, or active duty deployment.

#### PLANNING/ZONING

**Senate Bill 454 by Senator Barrow (Act 620)** declares that the policy of the state is to promote sound growth and development of parishes and municipalities by enabling them to undertake the correction of deficient conditions, factors and characteristics through comprehensive and coordinated community development, the formulation, participation in, and adoption of public and private improvement programs related thereto and the encouragement of participation in such efforts by private enterprise.

#### SCHOOLS

**Senate Bill 457 by Senator LaFleur (Act 180)** authorizes the Avoyelles Parish School Board to levy an additional sales and use tax not to exceed one percent.

#### SPECIAL DISTRICTS

**Senate Bill 111 by Senator Barrow (Act 610)** creates the Parkwood Terrace Crime Prevention and Neighborhood Improvement District as a political subdivision in East Baton Rouge parish to aid in crime prevention and serving the needs of district residents by funding beautification and improvements for the overall betterment of the district.



**Senate Bill 235 by Senator T. Carter (Act 172)** provides for the status of private entities contracting with the Algiers Development District, shall be subject to audit by the legislative auditor, excluding investor owned utility regulated by the La. Public Service Commission or the governing authority of the city of New Orleans.

## Military/Veterans Affairs

by: Heyward Jeffers  
(225) 342-2108

### First Extraordinary Session 2016

No Military/Veterans Affairs Bills Filed

### Regular Session 2016

#### Louisiana Military Family Assistance Fund.

**House Bill 988 by Representative Armes (Act 185)** adds the United States Coast Guard to the list of activated military personnel eligible to benefit from assistance by the Louisiana Military Family Assistance Act and the Fund it uses to provide help with need-based claims of family members of activated military personnel. Claims include costs for transportation and other costs of activated personnel and veteran outreach programs. A companion proposal, **House Bill 1002 by Representative Montoucet, (Act 402)**, extends eligibility for Military Family Assistance Fund benefits to families of honorably discharged active-duty military personnel and further defines such personnel as persons domiciled in Louisiana who were on full-time active duty in the military service of the United States and received an honorable discharge.

#### Unemployment Compensation.

**House Bill 1142 by Representative Horton (Act 463)** provides that a spouse of a military service member shall not be disqualified for unemployment compensation benefits if that spouse resigns employment to relocate with their military spouse pursuant to an order of permanent change of station. The new law further provides that benefits paid to an

employee who leaves their job pursuant to their military spouse's permanent change of station order shall not be charge against the experience rating of an employer from whom an employee leaves to relocate and shall be recouped as a social charge.

#### Military Training.

**Senate Bill 283 by Hewitt (Act 616)** provides that armed forces personnel who have received military training in engineering and have a military occupation specialty in engineering may apply for state certification as a professional engineer but must satisfy the certifying board's minimum requirement standards. The applicant must have performed engineering responsibilities that exceeds or is equivalent to the educational, examination, and experience requirements for licensure, certification, or registration of the professional or occupational licensing board.

#### Military Honor Automobile License Plates.

**House Bill 355 by Representative Mike Johnson (Act 137)** creates the Bronze Star Medal automobile license plate for military recipients of the medal. The medal is awarded to members of the United States Armed Forces for either heroic achievement, heroic service, meritorious achievement or meritorious service in a combat zone. Whenever the medal is awarded by one of the services for valor in combat, a combat "V" Device is authorized for wear on the medal. **Senate Bill 389 by Senator Erdey (Act 194)** creates the "100% Disabled American Veteran" Military Honor Automobile License

Plate. The new law requires the issuance of a military honor automobile license plate to a qualified disabled veteran who has a service-connected disability of 100% as determined by the U.S. Department of Veterans Affairs and who is a resident of Louisiana. Issuance of the plate without a fee and without renewal requirements applicable to standard plates. The measure requires the secretary of the Department of Public Safety and Corrections to establish such rules and regulations as are necessary to implement the provisions of the new law. Handicapped hang tags may also be used by handicapped veterans who have military honor license plates.

#### Private Employment.

**Senate Bill 72 by Senator Peacock (Act 190)** allows private employers to adopt an employment policy that gives preference in hiring an honorably discharged veteran, the spouse of a veteran with a service-connected disability, the unremarried widow or widower of a veteran who died of a service-connected disability, and the unremarried widow or widower of a member of the U.S. Armed Forces who died in the line of duty under combat-related conditions. The new law requires that if a company voluntarily elects to participate in the established veterans preference policy, then the employer is to apply the policy uniformly to employment decisions regarding hiring. It also provides that this preference for veterans is not to be considered a violation of any state or local equal employment opportunity law. Certain family members of a veteran are also eligible for the preference.

#### Weapons/Firearms.

**House Bill 304 by Representative Magee (Act 44)** exempts veterans of the U.S. Armed Forces from paying anything for concealed handgun permit fees. Prior law required such veterans to pay one-half of the fees associated with obtaining a concealed handgun permit.

#### Veterans Court Program.

**House Bill 55 by Representative Dwight (Act 181)** provides for the dismissal of certain criminal charges upon completion of a Veterans Court Program by a veteran. The veteran must waive his right to trial if accepted into the program. The court may also defer proceedings and place a defendant on probation when the court determines that it is in the best interest of Justice, unless the district attorney refuses to consent to such probation. The new law also provides that once the term of probation is completed, the criminal charges shall be dismissed against the person. It also provides that the dismissal of charges shall be without court adjudication of guilt and shall not be deemed a conviction, but also requires that this dismissal shall occur once with respect to any person. **House Bill 1141 by Representative Hazel (Act 230)** expands the scope of defendants who are eligible to participate in the Veterans Court Program and excludes certain veterans from participation in the program. A defendant may be considered for participation in the Veterans Court Program even if the defendant is not otherwise eligible for probation due to the defendant's criminal history. Those excluded include defendants with a prior felony conviction for a crime of violence such as a homicide or a sexual offense, or those with any pending criminal proceeding alleging commission of a homicide or a sexual offense. For pending proceedings in domestic abuse battery or domestic abuse aggravated assault,

the defendant shall comply with the following additional requirements as a condition of eligibility in the Veterans Court Program:

1. Completion of a court-monitored domestic abuse intervention program.
2. No ownership or possession of a firearm while under the supervision of the Veterans Court Program or court-ordered probation.



## Natural Resources

by: Alan Miller  
(225) 342-2576

### 2016 First Extraordinary Session

None

### 2016 Regular Session

**Senate Bill 186 by Senator Morrish (Act 203)** discontinues the White Lake Property Advisory Board. The board advised the Wildlife and Fisheries Commission on issues surrounding the White lake property in Vermillion Parish that was donated to the state in 2002, by BP America Production Company.

**House Concurrent Resolution 110 by Representative Robby Carter (Sent to the Secretary of State)** requests the Dept. of Wildlife and Fisheries, in cooperation with the Dept. of Natural Resources, to study the effects of withdrawals for oil and gas operations from rivers and river segments in the natural and scenic river program and to report the findings to the oversight committees on or before March 1, 2017.

**House Concurrent Resolution 115 by Representative Robby Carter (Sent to the Secretary of the State)** requests the commissioner of conservation to study the effects of the ground water withdrawals on the sustainability of the Southern Hills Aquifer System and on the water supplies and levels of parishes currently relying on that ground water and to report those findings to the oversight committees on or before March 1, 2017.

### 2016 Second Extraordinary Session

None



## Property

by: *Angela De Jean*  
(225) 342-0661

### 2016 Regular Session

**House Bill 867 by Representative Leopold (Act 70)** authorizes the Department of Agriculture to place advertising signs on property owned by the department and requires the department to establish fees, rules, and regulations to implement the provisions allowing advertising signs on property owned by the department.

Present law provides procedures for expropriation by expropriating authorities, including the state or its political corporations or subdivisions, and domestic or foreign corporations, limited liability companies, or other legal entities engaged in the construction of railroads, toll roads, navigation canals, waterworks, filtration and treating plants, sewerage plants, piping, marketing and transportation of natural gas for the purpose of supplying the public with natural gas, transmitting intelligence by telegraph or telephone, and various other public utilities. Present law also requires disclosure of certain information before exercising the right of expropriation, including the appraisal of the compensation due the landowner and the purpose, terms, and conditions of the proposed acquisition.

**House Bill 313 by Representative Garofalo (Act 108)** provides for additional disclosures of information to property owners by expropriating authorities, other than the state or its political subdivisions, prior to the making of an offer to acquire an interest in property. The notice must contain a statement that the property may be expropriated only by an authority authorized to do so. **Act 108** authorizes the expropriating authority to either identify the website where the statutes can be read or provide a copy of the statutes.



There were several bills during the 2016 Regular Session of the Legislature which authorizes the transfer or lease of certain state property. **House Bill 911 by Representative Terry Brown (Act 152)** authorizes the transfer or lease of certain state property in Grant Parish from the Department of Transportation and Development to the Grant Parish Police Jury and provides for the reservation of mineral rights to the state.

**House Bill 323 by Representative Jackson (Act 46)** authorizes the transfer or lease of certain state property in Morehouse Parish from the Department of Wildlife and Fisheries to Kenneth W. Cook, Jr., and Annie S. Cook and provides for the reservation of mineral rights to the state.

**House Bill 622 by Representative Jim Morris (Act 31)** authorizes the transfer or lease of certain state property in Caddo Parish from the division of administration to David Hearon and Angela Hearon and provides for the reservation of mineral rights to the state.

**House Bill 214 by Representative Lance Harris (Act 103)** authorizes the sale of certain property in Rapides Parish from the Department of Health and Hospitals and the division of administration to the Diocese of Alexandria, a nonprofit corporation. Provides for the reservation of mineral rights to the state.

**Senate Bill 142 by Senator Gatti (Act 212)** authorizes the commissioner of administration to transfer certain state property to Andrew B. and Catherine C. Hunt. Under present law, a state bank is authorized to purchase, hold, and convey immovable property which is necessary for the proper transaction of its business, which has been mortgaged to it as security for a loan, which has been conveyed to it in satisfaction of debts previously contracted in the course of its business, which it purchases at sales under judgement of mortgages held by the bank, and which is pursuant to participation in a shared appreciation loan or home equity conversion loan. A bank is prohibited from holding immovable property as an asset for longer than ten years unless the immovable is necessary for the proper transaction of the bank's business or is held pursuant to participation in a shared appreciation loan or home equity conversion loan. The bank must carry the immovable on its books at fair market value or acquisition cost, whichever is lower.

**Senate Bill 144 by Senator Martiny (Act 74)** removes provision that the property be carried at fair market value or acquisition cost and provides that the immovable be carried on the bank's books in accordance with generally accepted accounting principles (GAAP).

Additionally, present law requires that a state bank annually obtain a current appraisal, from a qualified appraiser, of the fair market value of immovable property held by the bank in an amount greater than \$250,000 and reduce the value of the property on its books if the fair market value declines. **(Act 74)** retains the requirement for annual appraisal but provides that the bank account for the property in accordance with generally accepted accounting principles (GAAP).

Lastly present law required that if property is valued at less than \$250,000, the state bank is to annually perform an adequate evaluation of the property. Provided that if determined that the property value is less than its book value, then the book value is to be reduced to reflect the correct valuation according to policies adopted by the commissioner of financial institutions. **(Act 74)** requires that the bank reflect the correct valuation in accordance with generally accepted accounting principles (GAAP).

## Public Safety/Law Enforcement

by: Nancy Vicknair  
(225) 342-1472

### 2016 FIRST EXTRAORDINARY SESSION

The First Extraordinary Session of 2016 did not include any legislation relative to public safety or law enforcement.

### 2016 REGULAR SESSION

#### ALIENS/ILLEGAL

**House Bill 151 by Representative Hodges (Pending Senate Judiciary A)** prohibits state departments, agencies, and offices and state or local political subdivisions from developing "sanctuary" policies with respect to immigration enforcement.

#### CHILDREN/ABUSE

**House Bill 97 by Representative P. Smith (Act 234)** requires the state child protection toll-free hotline number be posted on the website of every public school.

#### CRIME

**House Bill 953 by Representative L. Harris (Act 184)** amends the definition of hate crimes to include selection of the victim based upon the status as a law enforcement officer, firefighter, or emergency medical services personnel.

#### CRIME/ASSAULT

**House Bill 582 by Representative Jackson (Act 225)** removes element of the offense specifying that the aggravated assault must be created with a firearm.

#### CRIME/SEX OFFENSES

**House Bill 992 by Representative Connick (Act 560)** with regard to sex offender notification and registration requirements, the legislation amends the definitions of "aggravated offense" and "sexual offense against a victim who is a minor" to include crime against nature and provides relative to the registration requirements of persons convicted of third degree rape. Requires all persons convicted of third degree rape to register as a sex offender for the duration of their lifetime regardless of whether the victim is incapable of resisting due to an intoxicating agent or unsoundness of mind.

#### CRIMINAL PROCEDURE

**Senate Bill 377 by Senator Peacock (Act 298)** requires that hotels post information of the National Human Trafficking Hotline in the same location where other employee notices required by law are posted.





## LAW ENFORCEMENT

**House Concurrent Resolution 59 by Representative Marcelle (Sent to Secretary of State)** re-creates the Louisiana Law Enforcement Body Camera Implementation Task Force to study and make recommendations regarding the requirements for implementation and development of best procedures for the use of body cameras, and provides for a written report of its recommendations and findings not later than 60 days prior to the 2017 Regular Session.

**Senate Bill 54 by Senator Johns (Involuntarily Deferred in House & Governmental Affairs)** creates a pilot program, the Statewide Motor Vehicle theft and Uninsured Motorists Program, for using an automatic license plate recognition system to identify uninsured motorists and stolen vehicles.

## MOTOR VEHICLES/MOTORCYCLES

**House Bill 337 by Representative Schexnayder (Failed House Final Passage)** would have restricted the requirement of wearing safety helmets to motorcycle operators and riders under 21 years of age.

## PUBLIC RECORDS

**Senate Bill 398 by Senator Johns (Act 525)** provides that video or audio recordings generated by law enforcement officer body-worn cameras that are found to violate an individual's reasonable expectation of privacy are exempt from disclosure. However, such recordings shall be disclosed upon a determination and order from a court of competent jurisdiction. Also provides that body-worn camera video or audio recordings

generated while the law enforcement officer is not acting in the scope of his official duties shall not be subject to disclosure when the disclosure would violate a reasonable expectation of privacy. Requires requests for production of recordings be incident specific and include reasonable specificity as to date, time, location, or persons involved and authorizes the custodian of such recordings to deny a request which does not containing reasonable specificity.

## VITAL STATISTICS

**House Bill 1136 by Representative Lopinto (Act 158)** authorizes the state registrar to disclose the contents of birth and death certificates to law enforcement upon request.

## WEAPONS/FIREARMS

**House Bill 135 by Representative T. Landry (Act 426)** requires DHH and the office of elderly affairs to report to the La. Supreme Court any information in its possession on any adult which may be prohibited from possessing a firearm. That information shall be provided upon request of the court and in a reasonable time period.

**House Bill 142 by Representative Miguez (Act 212)** provides for the issuance of concealed handgun permits and provides that a person is ineligible for a concealed handgun permit if he has been convicted of a felony offense even if the conviction has been expunged. However, a person who has obtained an expungement for a felony conviction shall not be considered ineligible to obtain a concealed handgun permit if:

(1) The person's felony conviction was not for a crime of violence and 10 years have elapsed since the completion of the person's probation, parole, or suspended sentence.

(2) The person has been pardoned by the governor and the pardon does not expressly prohibit the person from shipping, transporting, possessing, or receiving firearms.

Also excludes crimes of violence from convictions which may be expunged to render a person eligible for a concealed handgun permit.

**House Bill 315 by Representative Ivey (Involuntarily Deferred in House Criminal Justice)** authorizes the issuance of an enhanced concealed handgun permit and provides that to qualify for an enhanced permit, a Louisiana resident shall be the holder in good standing of a valid Louisiana concealed handgun permit, complete a course of training in the use of firearms which is equivalent to training approved by P.O.S.T. and be qualified annually in the use of firearms, and pay an annual fee of \$50 per year for the enhanced concealed carry permit.

**House Bill 1155 by Representative Hodges (Act 465)** provides for the issuance of a temporary concealed handgun permit to persons who have obtained a protective order to prevent abuse and provides for eligibility and qualification criteria for the issuance of those permits.

**2016 SECOND EXTRAORDINARY SESSION**

The Second Extraordinary Session of 2016 did not include any legislation relative to public safety or law enforcement.

# Retirement

by: Margaret Corley  
(225) 342-8827

## 2016 Regular Session

### **COST-OF-LIVING ADJUSTMENTS (COLAs)**

**Senate Bill 2 by Senator Peacock (Act 93) and House Bill 32 by Representative Jones (Act 512)** provides a 1.5% COLA to all eligible retirees and beneficiaries of the Louisiana State Employees' Retirement System (LASERS) and Teachers' Retirement System of Louisiana (Teachers), and a 2% COLA to all eligible retirees and beneficiaries of the Louisiana School Employees' Retirement System (LSERS) and the Louisiana State Police Retirement System (Troopers). The COLA is funded with money from each system's experience account, a special account where money to pay for COLAs is accumulated, and is scheduled to begin July 1, 2016.

### **SYSTEM LIABILITIES**

**Senate Bill 18 by Senator Peacock (Act 95)** provides for changes to the amortization period of the liabilities of the four state systems: LASERS, Teachers, LSERS, and Troopers. The bill reduced the amortization period from 30 years to 20 years when the system is 70% funded. The bill also allowed for the reamortization of certain special debt to occur every five years, leveling the employer rate at each system, beginning with the 2019-2020 fiscal year. The bill moved the systems more quickly towards compliance with the constitutional

requirement that all benefits must be funded over a 10 year period by amortizing the debt associated with deposits made to each experience account over 10 years instead of 30 years.

**Senate Bill 5 by Senator Peacock (Act 94)** provides for the payment of annual administrative expenses for LASERS, Teachers, LSERS, and Troopers. The bill provides that administrative expenses shall be paid in the year in which they are charged instead of over a 30 year period.

### **RETIREES RETURNING TO WORK**

**House Bill 60 by Representative Miguez (House adopted Conference Committee Report)** would have provided that a school nurse may return to work 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%.

**House Bill 61 by Representative Hoffmann (Pending in Conference Committee)** would have provided that a retired school psychologist may return to work without a suspension of his retirement benefit if a critical shortage has been certified by the employing school district.

**House Bill 907 by Representative LeBas (Pending in Conference Committee)** would have provided that a retired teacher may return to work as a substitute classroom teacher and earn up to 50% of his retirement benefit in any fiscal year if he is filing a position left open due to an extended leave approved by the school board. If he or she remains employed after reaching the earnings limitation, the benefit is reduced according to the percentage earned over 50%.



#### **OPTIONAL RETIREMENT PLAN (ORP)**

**Senate Bill 17 by Senator Peacock (Pending Senate Retirement)** would have provided for a one time election by a participant in the ORP to join the regular retirement plan as a new member without any previous service credit. The balance of the ORP account of a participant making such election would remain in their ORP account.

#### **BOARD OF TRUSTEES**

**House Bill 12 by Representative Pearson (Act 19) and Senate Bill 13 by Senator Peacock (Pending House Retirement)** provides that the state treasurer and the commissioner of administration or their designees, serve as voting member of the Municipal Employees' Retirement System board of trustees.

**House Bill 37 by Representative Jones (Act 648)** provides for term limits of 12 years for the members of the board of trustees for the Municipal Employees' Retirement System. The bill also provides for prohibitions against food, drink, or refreshment except during an educational or professional development seminar or conference.

**House Bill 14 by Representative Pearson (Act 621)** replaces the chairman of the House Committee on Retirement with a member of the House Committee on Retirement appointed by the speaker of the House of Representatives as a trustee on each of the 13 retirement systems.

**Senate Bill 4 by Senator Peacock (Act 159)** provides that the Teachers' Retirement System of Louisiana board of trustees shall only be required to meet 10 times a year instead of twelve.

#### **SOCIAL SECURITY OFFSETS**

**House Concurrent Resolution 12 by Representative Foil (Filed with the 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 did not contribute to Social Security. These resolutions specifically applies to two different calculation rules

which 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 in efforts to stabilize Social Security.

## Revenue & Taxation

by: Leonore Heavey  
(225) 342-8313

### **2016 FIRST EXTRAORDINARY SESSION**

During the First Extraordinary Session, the Legislature enacted two major temporary sales tax measures that impact virtually all Louisiana citizens and businesses. Because the majority of sales tax exemptions were eliminated, many transactions that have been historically exempt from the sales tax will now be taxable. The combined effect of these two measures is that most purchases Louisiana citizens will make from April 1, 2016 through June 30, 2018 will be subject to a state sales tax rate of 5%. The constitutionally protected exemptions for food for home consumption, residential utilities, and prescription drugs were not impacted by either measure and these purchases will continue to be exempt from state sales tax.

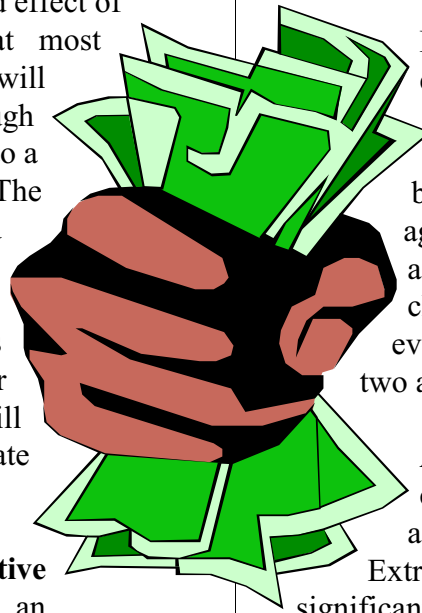
**House Bill 62 by Representative Jackson (Act 26)** imposes an additional 1% state sales tax on most purchases of goods and services. The new state sales tax is in addition to the 4% sales taxes already levied. This tax became effective on April 1, 2016 and will sunset after June 30, 2018. While the temporary 1% tax is in effect, only 65 state sales tax exemptions will continue to be operative.

**House Bill 61 by Representative Jay Morris (Act 25)** temporarily eliminated all but 31 of the almost 200 state sales tax exemptions, making most purchases that were not previously subject to tax, taxable at the rate of 4% from April 1, 2016 to July 1, 2016. Beginning July 1, 2016, purchases and sales that were exempt before April 1, 2016, will be subject to 2% sales tax. The exemptions will be fully restored July 1, 2016.

Determining which transactions are exempt, which are taxable, and at what rate has been the focus of several policy pronouncements by the department of revenue, the agency charged with state tax administration, including a 25 page chart detailing the applicability of every sales tax exemption for the next two and a half years.

Although the temporary sales tax changes garnered the most attention during the First Extraordinary Session, there were also significant corporate tax changes enacted.

If the voters approve proposed amendment of Article VII, Section 4(A) of the Louisiana Constitution, **House Bill 31 by Representative Leger (Act 31)**, during the statewide election on November 8<sup>th</sup> this year, corporations will no longer be allowed to deduct their corporate federal income taxes paid in computing Louisiana corporation income taxes. The individual income tax



deduction for federal income taxes paid will not be affected by the proposed constitutional amendment, only corporations would lose this deduction. The companion bill to the proposed constitutional amendment is **House Bill 95 by Representative Leger (Act 30)**, which will repeal deductibility of federal income taxes paid for purposes of calculating corporation income tax for tax years January 1, 2017. **House Bill 29 by Representative Leger (Act 8)**, which is also contingent upon approval by the voters of Louisiana of the constitutional amendment proposed in **Act 31**, will change the corporate income tax rate from a graduated schedule of rates based on the taxable income of the taxpayer to a single flat rate of 6.5% regardless of the taxable income of the corporation beginning January 1, 2017.

**House Bill 55 by Representative Leger (Act 16)** enacted an "addback" statute that requires corporate taxpayers to add back interest and other intangible expenses paid to out-of-state related parties when determining their income subject to Louisiana corporate income tax. The purpose of the addback statute is to prevent corporate taxpayers from shifting income earned in Louisiana to another state using management fees, royalty payments, and similar payments to related parties.

The application of the corporate franchise tax was expanded by **House Bill 19 by Representative James (Act 12)** which clarified the application of the tax to corporations operating in Louisiana through an affiliate. Under the new provisions, limited liability companies that are taxed for federal income tax purposes as a corporation will be subject to the franchise tax for the first time since the enactment of the limited liability company statutes.

Permanent tax increases were created for both cigarettes and alcoholic beverages. The tax levied on cigarettes was increase by one and two-twentieths of one cent per cigarette or 22¢ per package of twenty cigarettes **House Bill 14 by Representative Leger (Act 4)** making the total state tax on a pack of cigarettes \$1.08. Even with this second cigarette tax increase within a year, the tax rate is lower than that in Texas and Arkansas.

**House Bill 27 by Representative Cox (Act 13)** increased the tax on all beverages of high and low alcoholic content. The new tax rates vary by beverage type, but the practical effect will be a one to two cent increase per drink.

Several tax administrative changes were enacted as well that will reduce the state's expenses and prevent windfalls to tobacco and alcoholic beverage dealers whose discounts for timely filing and payment would otherwise have increased with the tax rate increases.

**Senate Bill 15 by Senator Morrell (Act 23)** changed the ordering of the application of tax credits and requires that refundable credits, other than the credit for ad valorem taxes paid on inventory, be applied before all other credits and payments of tax except for nonrefundable credits with no carry forward which will be applied first.

**House Bill 18 by Representative Montoucet (Act 5)** reduced the discounts for the reporting and remitting of excise taxes on certain tobacco products, the discount for stamping cigarettes and the discount for the reporting and remitting of excise taxes and the stamping of cigarettes to from six to five percent.

**House Bill 28 by Representative Cox (Act 7)** reduced the amount of the discount for accurately reporting and timely remitting of the tax on beverages of low alcoholic content from two to one and one-half percent and from three and one-third to two and one-half percent on beverages of high alcoholic content.

Total vendors compensation for sales tax will be limited under **House Bill 43 by Representative White (Act 15)** to \$1,500 per calendar month for dealers who operates one or more business locations within Louisiana.

Finally, **House Bill 30 by Representative Leger (Act 22)** attempts to address shrinking sales tax collections due to online purchases by citizens who fail to remit the consumer use tax by requiring online dealers that have Louisiana affiliates to file all applicable sales and use tax returns and remittances electronically. When similar statutes have been enacted in other states, the initial response of the larger online retailers is to cut their ties to their in state affiliates. Anecdotal evidence suggests that this has happened in Louisiana.

### ***2016 REGULAR SESSION***

In a continuation of the effort to address shrinking sales tax collections due to online purchases by citizens who fail to remit the consumer use tax, **House Bill 1121 by Representative Leger (Act 569)** requires remote retailers to submit annual reports to their Louisiana customers and to the Department of Revenue for sales on which the retailer did not collect and remit sales tax. The annual report that is sent to Louisiana consumers will be a detailed, itemized list that will allow the customer to accurately report

the correct use tax on their state income tax returns. The report to be sent to the department will include only the total dollar amount of sales and will not list the type of items purchased. This law was based on a similar 2010 Colorado statute that has been determined by the 10th U.S. Circuit Court of Appeals to be constitutional (*Direct Marketing Association v. Brohl*, No. 12-1175 (10<sup>th</sup> Cir. Feb 22, 2016)). At this point several major remote retailers are collecting and remitting sales tax to Colorado instead of providing the reports.

Additional funding is required for local 911 districts to field a new generation of 911 emergency call services that have been outlined by the Federal Communications Commission. The new capabilities are intended to enhance the accessibility of 911 to the public and provide Public Service Access Providers with enhanced information for responding to emergencies more quickly and effectively.

1. Beginning October 1, **House Bill 678 by Representative Carmody (Act 590)** increases the 911 fee on prepaid wireless telecommunications from 2% to 4% and expands the fee base to include any consumer device or service that provides 911 access. Additional prepaid services that involve connection through satellite, computers, and other devices are expected to gain popularity over time. These services are expected to be used more extensively in the future, therefore this legislation is allowing the 911 districts to be prepared for the future. The Act requires annual reporting by the 911 districts that includes a detailed accounting of all



revenues and expenditures, projects for the development of next generation 911 capability and opportunities for neighboring 911 districts to cooperate in joint projects for the enhancement of public safety.

2. For wireless users who use long-term contract plans or monthly plans with a particular provider and not prepaid wireless, **House Bill 805 by Representative Broadwater (Act 665)** authorizes an increase in the maximum amount of the 911 service charge from \$.85 per month per wireless connection to \$1.25 per month per wireless connection or the rate the communication district is authorized to levy on August 1, 2016, whichever is higher. Revenues collected are to be used for the sole purpose of providing 911 emergency response services and operations.

If approved by the voters in November, the constitutional amendment proposed by **House Bill 505 by Representative Mike Johnson (Sent to the Secretary of State)** will establish a total ad valorem property tax exemption for the homestead of the unmarried surviving spouse of a member of the armed forces of the United States, the La. National Guard, the La. State Police, law enforcement, or fire protection officer killed in the line of duty.

Legislation was introduced to resolve a difference of opinion among local assessors as to the inclusion of federal tax credits in the income approach to property valuation for affordable housing property. **House Bill 610 by Representative Abraham (Act 182)** prohibits local assessors from using the value of income tax credits available under Section

42 of the Internal Revenue Code and below market financing obtained under the National Affordable Housing Act or the Federal Home Loan Bank Affordable Housing Program as a component of the value or income to rent-restricted affordable housing properties for purposes of ad valorem taxation. By excluding these federal benefits from inclusion in property valuation, this legislation will insure statewide uniformity in the valuation of low income affordable housing.

Congress recently extended several due dates for federal business tax returns by one month which would have made the state and federal returns due on the same day. **House Bill 735 by Representative Abramson and Senator Thompson (Act 185)** adds an additional month to the filing and payment due date of state partnership, corporate income, and corporate franchise tax returns. Louisiana tax returns and payments are due one month after the same taxpayer's federal income tax returns are due. This legislation continues the state's ability to give taxpayers an extra month to complete their state business tax returns.

**Act 185** also addresses tax credit purchase deadlines to be able to use a transferable tax credit as a credit on a current year tax returns. Act No. 23 of the 2016 First Extraordinary Session of the Legislature required the transferable credit to be purchased by the original due date of the return, rather than the extended due date, in order to be used as a credit rather than a payment. This Act requires that the taxpayer purchasing the credit for use on a current year return must, at a minimum, have a binding credit purchase agreement in place before the original due date in order to avoid being required to use the credit as a payment.

Apparently there was some confusion about whether or not the term "broker" included tax return preparers who facilitate the transfer of tax credits for the benefit of a client. **House Concurrent Resolution 54 by Representative Stokes and Senator Morrell (Sent to the Secretary of State)** is intended to eliminate that confusion and make it clear that these tax return preparers are not brokers who must comply with the broker provisions of the Tax Credit Registry. This resolution expresses the intent of the legislature regarding the meaning of the language in Act 451 of the 2015 Regular Session regarding who is a tax credit "broker" for purposes of the Tax Credit Registry and the Motion Picture Investor Tax Credit. Brokers are those persons who facilitate the sale of a tax credits in exchange for consideration.

In addition to containing several technical cleanup provisions for the Board of Tax Appeals local division that are a result of an agreement among the stakeholders, **House Bill 978 by Representative Danahay (Act 335)** also gives the Board of Tax Appeals jurisdiction over the occupancy tax since some of the local sales tax collectors are also occupancy tax collectors. The business community was agreeable with this approach with the addition of a refund provision that overrules an attorney general opinion saying there was no refund process for occupancy tax.

**Act 335** also creates an alternate method for the satisfaction of claims against the state resulting from the 2011 UTELCOM corporate franchise tax decision that were approved by the Board of Tax Appeals, but not appropriated during the legislative session. R.S. 47:1484(C) authorizes the secretary of revenue and a taxpayer with a claim against

the state for erroneous payment of corporate franchise tax to enter into an agreement to offset corporate taxes on or after July 1, 2017, for 25% of the amount of the claim per year for four years if the claim is not appropriated by the legislature within one year of the date of the Board of Tax Appeals' approval of the claim.

To provide a permanent body responsible for the continuous review of the state's tax laws, **House Bill 1120 by Representative Schroder (Act 568)** established the Louisiana Tax Institute as a public body within the department of revenue to serve as the official advisor on tax law revision and tax law reform agency of the state. The Institute will be governed by a eight-member board serving three-year staggered terms, except for the Secretary of the Department of Revenue and the governor's designee who are permanent members during their tenure as gubernatorial appointees. Members may receive reimbursement for travel expenses but receive no compensation. The Institute is to make tax law and procedure recommendations to the legislature to address defects and inequities in the tax laws, to cooperate with various organizations and propose tax law changes as recommended by them as well as the Board of Tax Appeals, the La. Supreme Court, other La. courts, and the public, to render reports to the legislature, to organize and conduct meetings and seminars on current tax law issues, to review legislation, and to make recommendations concerning proposed or pending legislation.

In order to provide the Sales Tax Streamlining and Modernization Commission additional time to complete its work, **HB 1060 by Representative Stokes (Act 564)** authorizes the commission to continue its work through

June 2018 if the commission members vote to authorize the continuation. The Act also establishes a subcommittee to make recommendations on coordinated multi-parish sales and use tax audits, presumably in response to the business community's desire to minimize the efforts involved in audit compliance.

To allow the Department of Economic Development more flexibility in the administration of its programs to maximize each program's return on investment, the legislature approved two bills. **House Bill 783 by Representative Abramson (Act 663)** decouples the provisions of the Quality Jobs Program and the Enterprise Zone Program and **House Bill 794 by Representative Abramson (Act 664)**, decouples the provisions of the Competitive Projects Payroll Incentive Program and the Enterprise Zone Program.

**Senate Bill 40 by Senator Perry (Act 187)** reestablished the individual income tax refund checkoff for Friends of the Palmetto Island State Park until 2020. The checkoff donation was not included in the individual income tax return in 2015 because the annual collections were under \$10,000. Under this Act, the checkoff will remain on the return for four years regardless of the total annual collections.

In honor of Lemonade Day, **Senate Bill 99 by Senator Gary Smith (Act 198)** exempts annual sales by minors of less than \$500 from the local business and occupational license tax.

## ***2016 SECOND EXTRAORDINARY SESSION***

### **SALES TAX**

**House Bill 51 by Representative Jim Morris (Act 12)** reinstates several state sales tax exemptions that were suspended as of April 1, 2016 by Acts 25 and 26 of the First Extraordinary Session. Most of the reinstated exemptions apply to schools, medical equipment and nonprofits. The exemptions are effective July 1, 2016.

**House Bill 27 by Representative Broadwater (Act 3)** defines "further processing" for sales tax purposes. Until the recent Louisiana supreme court decision in Nisco, if a company purchased raw materials that were not actually incorporated into their end product, the company was required to pay sales tax on the raw material purchase. Under the Nisco decision, the supreme court extended the application of the further processing exemption to the production of by-products. If the use of the raw materials resulted in the production of a by-product that the company sold, the entire purchase price of the raw materials was determined to be exempt from taxation even if the purchase price of the raw materials was several times greater than the sales price of the by-product. **Act 3** will provide a sales tax credit for companies that purchase raw materials that are incorporated into a by-product, but the credit will be limited to the sales tax on the selling price of the by-product and not on the purchase price of the raw materials.

## CORPORATE INCOME TAX

**House Bill 20 by Representative Gene Reynolds (Act 8)** creates uniformity among business types in how their corporate income subject to tax in Louisiana is calculated by moving almost every business to what is known as a "single sales factor." Under a single sales factor a corporation that operates in several states will determine how much of its income is earned in Louisiana using the ratio of Louisiana sales to all of its sales. The only exception provided in the bill is for oil and gas companies which will be using a "double weighted" sales factor that allows them to determine how much of their income is attributable to Louisiana based on how much of its Louisiana property, payroll, and sales compare to its worldwide property, payroll, and sales. **Act 8** also makes it clear that sales will be attributed to the market where the sale occurred using "market based sourcing."

## INSURANCE PREMIUM TAX

The investment tax credit provides reductions in the premium tax liabilities based on the share of admitted assets held in qualifying Louisiana investments. Changes made in the First Extraordinary Session limited the types of qualifying investment. **House Bill 24 by Representative Anders (Act 7)** provides that health maintenance organizations are not subject to the 5% premium tax reduction in the investment tax credit and excepts these insurers from the modification of the type of investments that no longer provide qualification for the credit.

**House Bill 35 by Representative Anders (Act 1)** increases the annual health insurance premium tax assessed on health maintenance organizations (HMO's), which includes

Medicaid managed care organizations (MCO's) by 3.25% from 2.25% to 5.5%. In addition, the bill repeals statute that provides for these insurers to pay premium tax in lieu of corporate income and franchise tax. This will subject these insurers to corporate tax, however, corporate income tax can be offset by the amount of any premium tax paid.

## TAX CREDITS AND DEDUCTIONS

**House Bill 25 by Representative Lyons (Act 9)** reduces the Louisiana Citizens Property Insurance Corporation Assessment to 25% of the assessment and makes the reduction permanent. This reduction applies to the credit for both individuals and business that pay the Citizens assessment.

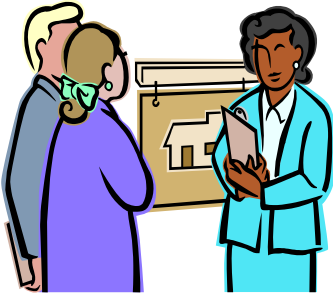
**House Bill 50 by Representative Montoucet (Act 11)** will fine tune the income tax capital gains deduction available for individuals who sell all of their equity interest in or assets of a privately held business domiciled in Louisiana. Currently the deduction is for 100% of the capital gains regardless of how long the individual has owned the business which has led to some creative tax planning that does not comport with the original intention of the deduction. **House Bill 50** requires the individual selling the business to owned the business for at least five years before any of the capital gain from the sale can be deducted and the longer the business is held, the greater percentage of gains will be deducted. The amount of time that an individual is considered to have owned the business will include the amount of time a prior owner owned the business if the individual inherited or purchased the business from the prior owner.

**Senate Bill 6 by Senator Morrell (Act 4)** increases the amount of the credit for ad valorem taxes on inventory that are fully refundable for businesses that pay \$500,000 or less in inventory tax annually. Additionally, the bill limits the amount of inventory tax credit subject to 75% refundability to inventory tax payments of one million dollars. Any tax credit for ad valorem taxes on inventory over one million can only be used to offset tax and cannot be refunded.

Under **Senate Bill 10 by Senator Ward (Act 5)** taxpayers who claim the industrial property tax exemption on their manufacturing facilities will not be able to claim refunds for ad valorem taxes on inventory, but will only be able to use the inventory tax credit to offset income and franchise taxes owed.

## INTEREST ON TAX REFUNDS

**House Bill 29 by Representative Price (Act 10)** is a cost reduction measure that provides the department of revenue with 90 days to review claims for tax refunds before interest begins to accrue. The 90-day review period that applies to individual income tax returns and refund claims will now apply to all taxes giving the department sufficient time to review refund claims for accuracy and proper documentation before the state owes the taxpayer refund interest.



## Social Services

by: *Ann S. Brown*  
(225) 342-0333

### 2016 First Extraordinary Session

None

### 2016 Regular Session

#### **CHILDREN**

#### Child Support

**Senate Concurrent Resolution 100 by Senator Bishop (Sent to Secretary of State)** requests the Louisiana State Law Institute to study the feasibility of revising state law to account for the financial burden placed on elderly parents by continuing child support awards for adult children with disabilities.

**House Bill 485 by Representative R. Johnson (Act 29)** eliminates the requirement that the Department of Children and Family Services (DCFS) notify an individual in writing 10 days prior to requesting that individual's credit report with regard to child support payments.

**House Bill 486 by Representative R. Johnson (Act 359)** requires an appeal for "seizure of assets" with regard to child support orders to be conducted through an administrative hearing which may be held telephonically or by means of any other such electronic media, and provides that the sole issue at the hearing will be whether the payor is in compliance with the order of support or whether the custodial party owes an overpayment of support.

#### Department of Children and Family Services (DCFS)

**Senate Bill 313 by Senator Barrow (Act 301)** moves the Council on the Status of Grandparents Raising Grandchildren from DCFS to the office of the governor and is a subcommittee of the Children's Cabinet Advisory Board.

**Senate Bill 326 by Senator Claitor (Act 302)** creates the Alfred C. Williams Child Protection Act which provides that beginning 5/1/17 and annually each year thereafter, the department must provide to the legislature certain child-specific information regarding reports of child abuse or neglect reported to the department.

**House Bill 475 by Representative Hoffmann (Act 90)** renames the division of programs to the division of child welfare and renames the division of operations to the division of family support within DCFS.

#### Foster Care

**House Bill 482 by Representative Jefferson (Act 117)** creates an eight-member Foster Care and Permanence Task Force to recommend to the governor and the legislature means by which the state may better facilitate permanency for foster children.

**House Concurrent Resolution 34 by Representative Hoffmann (Sent to the**

**Secretary of State)** continues legislative authority for and requests completion of a study by the Children's Code Committee of the Louisiana State Law Institute relative to continuing contact by parents and other relatives with children who are subjects of "child in need of care proceedings" within 60 prior to 2017 regular legislative session.

**House Concurrent Resolution 94 by Representative Billiot (Sent to the Secretary of State)** extends the Task Force on Youth Aging Out of Foster Care to study public policy and financing options for youth aging out of foster care through 7/1/17.

#### Miscellaneous

**Senate Bill 109 by Senator Barrow (Act 473)** provides that applications for assistance and the information contained in the case records of child care assistance clients of the Department of Education shall be confidential and any use of such information not directly connected with the administration of the department programs shall be unlawful. Provides for certain exceptions.

**House Bill 719 by Representative Hodges (Act 642)** authorizes certain persons to accompany a minor suffering from mental illness or substance abuse during transportation to a treatment facility pursuant to a physician's emergency certificate for treatment.

#### Safe Haven Law

**House Bill 237 by Representative Willmott (Act 84)** establishes an official Safe Haven symbol to identify emergency care facilities designated in the Safe Haven Law and requires DCFS to promulgate in rule the

image constituting the official symbol.

**House Concurrent Resolution 107 by Representative Willmott (Sent to the Secretary of State)** authorizes and directs DCFS to convene a consortium of emergency care facilities designated in the Safe Haven Law and to create and maintain a registry of such facilities.

#### **MISCELLANEOUS**

**House Bill 969 by Representative Cox (Act 155)** requires DHH to provide nursing homes and adult residential care providers with educational information on shingles and pneumonia no later than Sept. 1 of each year, through the posting of a link to its website, whereby the information can be downloaded. Further requires the providers to then disseminate the educational information to their residents.

**House Concurrent Resolution 93 by Representative Ivey (Senate Floor)** would have authorized and requested the Dept. of Health and Hospitals (DHH) and DCFS jointly, to study the desirability and feasibility of a prospective program to limit uses of Supplemental Nutrition Assistance Program (SNAP) benefits by Medicaid enrollees with certain health conditions, and to report findings to the legislature.

#### **Second Extraordinary Session**

None

## State Government

by: Dawn Watson  
(225) 342-6144

### 2016 Regular Session

#### STATE CONTRACTS

The type and amount of state contracts as well as the use of state contracting continues to be a popular item for discussion and debate. For the fifth year in a row, Representative Richard sponsored legislation to cut the amount of money the state spends on professional, personal, and consulting service contracts and to provide additional review by the Joint Legislative Committee on the Budget (JLCB). Last year's Act 87 provided for reporting by the division of administration to JLCB and review and approval by JLCB of state contracts, with certain exceptions, that: (1) are for professional, personal, and consulting services; (2) are valued at \$40,000 or more per year; (3) are funded solely with state general fund direct dollars or the Overcollections Fund dollars; and, (4) are for discretionary purposes.

This session **House Bill 454 by Representative Richard (Act 408)** made three major changes to present law: (1) it added applicability to social service contracts; (2) it removed the requirement that limited JLCB oversight to contracts fund by state general fund direct dollars or Overcollections Fund dollars; and (3) it removed the requirement that JLCB approve the contract for it to be effective. Another bill, **House Bill 74 by Representative Richard (pending Senate Finance)** would have required a reduction in the overall amount of professional, personal and consulting service contracts approved by the state for next fiscal

year. Finally, **Senate Bill 407 by Senator Milkovich (Act 589)**, establishes a joint legislative task force to study, review and make assessments on contracts and make recommendations on specific contracts or contract procedures.

This session also saw bills to regarding preferences in the awarding of state contracts. **House Bill 882 by Representative Armes (Act 670)** requires a 10% total evaluation point preference for a contract bidder who is a certified veteran and service-connected disabled veteran-owned small businesses. **House Concurrent Resolution 129 by Representative Zeringue (Sent to Secretary of State)** requests the Louisiana State Law Institute to study the issue of preferences in favor of Louisiana contractors for contracts related to integrated coastal protection projects and to report findings.





## STATE BUILDINGS, GROUNDS AND PROPERTY

Consistent with our tradition of honoring public servants by naming state buildings and grounds after them, there were two bills this session honoring two great Louisianans. Specifically, **Senate Bill 474 by Senator Cortez (Act 492)** names the area in the city of Lafayette generally known as the Ragin' Cajun Athletics Complex, the Cajundome, and the Cajundome Convention Center as the Edgar G. "Sonny" Mouton, Jr. Sports and Entertainment Plaza after Acadiana's most well-known and beloved political figure. **House Bill 442 by Representative Robert Johnson (Act 49)** names the correctional facility in Cottonport, Louisiana after former legislator and commissioner of administration Raymond Laborde.

In an effort to generate additional revenue, **House Bill 867 by Representative Leopold (Act 70)** authorizes departments, by rule, to establish policies for the placement, erection and maintenance of advertising and sponsorship signs on immovable property, improvements on immovable property, vehicles, vessels, airplanes, and assets of the department. Taking a different approach, **House Bill 812 by Representative Schroder (Act 66)** requires state agencies to annually identify unoccupied or underutilized office space in state owned or leased building and report such to the division of administration. The division is required to maintain a list of the unoccupied or underutilized space and periodically identify properties on such list that are suitable to an agency that leases space. The division is then to notify the agency head of the available space. Upon receipt of the notice, the agency head has a specified amount of time to move into the space, to provide a transitional plan for an eventual move or to

provide an explanation as to why the space is not suitable for use by the agency. The division is also required to periodically report to the Joint Legislative Committee on the Budget on unoccupied or underutilized space and their communications with agency heads regarding the occupancy of such.

## STATE EMPLOYEES

In response to actions taken by the previous administration in its final days, there were many bills introduced to prohibited pay increases to state employees in the time between the primary gubernatorial election and inauguration day. Three bills on the matter passed the legislature. **Senate Bill 57 by Senator Bishop (Act 588)** provides that, except for positions in a post-secondary or higher education system or institution, no unclassified employee in the executive branch of state government shall receive a pay increase commencing on the regularly scheduled gubernatorial primary election day and concluding on inauguration day without the approval of the JLCB. The legislation also provides that the State Civil Service Commission may establish the same or substantially similar provisions for positions in classified service within the civil service system. A second bill is **Senate Bill 49 by Senator Long (Act 517)**. It provides that in the last 90 days of a term of office of the governor, no cost-of-living increases, performance adjustments, or other general salary increases for unclassified employees in any budget unit, agency, or department of the executive branch of state government shall become effective unless first approved by the JLCB. Finally, **House Bill 308 by Representative Bacala (Vetoed)** would have provided that if, during the time period between the regularly scheduled gubernatorial primary election and inauguration day, a

budget status report produced by the division of administration indicated that a projected deficit existed for the state, public officials, employees, boards, or commissions in the executive branch of state government would be prohibited from increasing or authorizing an increase in the salary of any official or employee in the office, department, board, commission, agency or institution under the authority of the public official or employee or board or commission during that time period after the submission of such budget status report. The legislation provided for two exceptions: (1) an increase in the salary of a classified employee for a promotion or reallocation in a career progression group granted in accordance with civil service rules and procedures; and (2) an increase in salary for an employee of an institution of higher education that was funded solely from an endowment, scholarship, gift, donation, grant or award of money from the federal government or from a private person or legal entity. Further, it provided that any public official acting in violation of the prohibition would have been personally liable for the total amount of the increase for a total of three fiscal years following the violation; or if it is a board or commission acting in violation, each member of the board or commission voting in favor of the increase would have been personally liable in equal amount for his proportionate share in the total amount of increase for a period of three fiscal years. This bill was vetoed by the governor. The governor's veto message indicated that the bill was being vetoed because it was duplicative of what was accomplished by the other two bills and the legislation restricted the constitutional authority of the State Civil Service Commission by including classified employees in the activity being prohibited.

Addressing another matter regarding state employees, **Senate Resolution 121 by Senator Martiny (Sent to Secretary of State)** urges and requests the governor to reconsider his request to the Civil Service Commission to suspend performance adjustments for classified employees for next fiscal year. The resolution points out that since fiscal year 2009, nearly 8,500 state employees have been laid off in addition to many positions which were intentionally left vacant. This has significantly increased the workload of the remaining classified employees. Despite increases in workload, pay adjustments for employees have been completely suspended in two different fiscal years and just not funded in many years that the adjustments were not suspended. Consequently, the employee turnover rate has exceeded 17% in four of the last seven years. The resolution suggests that the governor delay his decision on the matter until after the second special session has concluded.

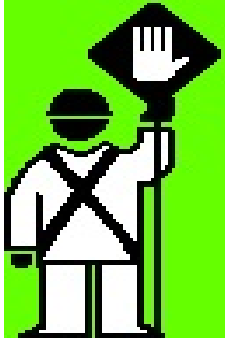
Finally, **House Bill 266 by Representative Marcelle (Act 398)** prohibits a state employer from inquiring about a prospective unclassified employee's criminal history until after an interview or a conditional offer of employment is made and provides for the consideration of criminal history in making employment decisions.

#### **STATE DEPARTMENTS**

In an effort to gain more control over executive branch agencies, **House Bill 947 by Representative Pope (Act 557)** requires certain state entities to annually report to the legislature information concerning administration of their entity. Specifically, the legislation provides for the named entities to provide to the legislature a full organizational chart showing each position, indicating

whether the position is filled or vacant, and if filled, the current salary of the employee occupying the position. The administrative entities required to provide such information include the departments of state government, the Board of Elementary and Secondary Education and the Public Service Commission.

## Transportation & Development



by: Sharon Lyles  
(225) 342-6547

### First Extraordinary Session

Despite a \$12.7 billion dollar backlog in highway and bridge needs, the call for the First Extraordinary Session included **NO** items to increase the excise tax on gasoline and special fuels or other revenue raising measures to raise revenue for highways, bridges, and infrastructure.

### 2016 Regular Session

During the last several years, millions of Transportation Trust Fund dollars dedicated to fund highways, bridges, and ports have been diverted and used for other purposes. While neither Extraordinary Session Call included an item to increase the tax on gasoline and special fuels or other revenue raising measures to increase funding for highways, bridges, and infrastructure, the state's budget in **House Bill 1 by Representative Henry (Act 17)** provides the department's operating budget on pages 46 through 48 and does **not** divert Transportation Trust Fund dollars to fund state police. The first step to increasing funding for infrastructure is the restore "public trust" in the Transportation Trust Fund. The department's operating budget increased by approximately \$7.3 million dollars from \$587,309,432 to \$594,652,188 and its 4,194 authorized positions appear unchanged from FY 2015-16. (see pages 188 and 189 of **House Bill 1**)

**House Resolution 242 by Representative James (Sent to the Secretary of State)** requests the department to study the feasibility of a parish governing authority levying and collecting a sales tax on the retail sale of gasoline which currently is constitutionally prohibited and to report its findings to the House Committee on Ways and Means, the House Committee on Transportation, Highways, and Public Works, and to the member of the House of Representatives representing House District Number 101 on or before February 1, 2017.

### Highway and Bridge Designations

LA R.S. 48:192(D) requires an Act of the Legislature to name any state highway. Several bills were filed this Session to designate state highways and bridges. Historically, the department expends \$3,360 of Transportation Trust Fund - Regular to install two memorial signs per location. Material and labor costs for signage are estimated to recur every ten years in perpetuity as roadway signs require replacement due to age or damage. To no avail, some discussion was had to encourage local governments or donations to fund sign costs due to the state's budgetary crisis and the backlog of highway construction dollars.

**Senate Bill 1 by Senator Morrish (Act 1)** designates a portion of LA 14 in Calcasieu Parish as the "Louisiana Master Trooper Steven Vincent Memorial Highway".

**Senate Bill 45 by Senator Morrish (Act 188)** designates the interchange of I-10(Exit 54) with LA 99 in Welsh, LA, as the "SP4 Donald C. Gillett Memorial Interchange" and a portion of LA 14 in Abbeville, LA as a Blue Star Memorial Highway.

**Senate Bill 87 by Senator J. Smith (Act 165)** designates the interchange of I-10 with US 171 in Calcasieu Parish as "Louisiana State Master Trooper Stephen H. Gray Memorial Interchange".

**House Bill 100 by Representative Terry Brown (Act 20)** re-designates a portion of US 165 in Grant Parish as the "Captain Ronald David Bennett Memorial Highway".

**House Bill 110 by Representative Horton (Act 22)** designates a bridge located on LA 154 in Bossier Parish as the "Officer Thomas LaValley Memorial Bridge".

**House Bill 111 by Representative Pylant (Act 540)** designates a bridge on LA 4 as the "Chief Warrant Officer Bryan Henderson Memorial Bridge".

**House Bill 114 by Representative Abraham (Act 126)** designates LA 1138-2 Prien Lake Road and Holly Hill Road roundabout in Calcasieu Parish as the "Russell T. Tritico, Sr. Circle".

**House Bill 120 by Representative Armes (Act 23)** designates a portion of US 171 in Vernon Parish as the "Paul R. Nicholas Memorial Highway".

**House Bill 311 by Representative Danahay (Act 136)** designates a portion of LA 3063 in Calcasieu Parish as the "First Responders Memorial Highway".

**House Bill 434 by Representative Hensgens (Act 139)** designates a portion of LA 27 in Cameron Parish as the "Terry Cox Memorial Highway".

**House Bill 687 by Representative Barras (Act 144)** designates a portion of LA 86 in Iberia Parish as the "Albert 'Al' Broussard Memorial Highway".

**House Bill 730 by Representative Hill (Act 146)** revises the Louisiana byway highway designations for the Myths and Legends Byway, the Zydeco Cajun Prairie Scenic Byway, and designates certain portion of the Zachary Taylor Parkway as Louisiana's Military History Byway.

#### Parish Transportation

**House Bill 1 by Representative Henry (Act 17)** appropriates \$46.4 million dollars in Transportation Trust Fund dollars to the Parish Transportation Fund. This amount is approximately \$16.4 million dollars more than the one cent Article 7, Section 27 of the Louisiana Constitution requires. Each penny of gasoline and special fuels tax equals about \$30 million dollars.

#### Priority Programs

**House Bill 2 by Representative Abramson (Subject to call - House concurrence)** contained capital appropriations for the Highway Program, the Port Construction and Development Priority Program, the State Aviation and Airport Improvement Program, the Statewide Flood Control Program, and various projects funded with general obligation bond funds; unfortunately, **House Bill 2** was not enacted. The Omnibus Bond Authorization Act of

2016, **House Bill 3 by Representative Abramson (Vetoed)** was vetoed by the governor on June 17, 2016.

#### Property - Disposition of Lands

Present law authorizes the department to acquire property for construction of highways and bridges amicably and by expropriation. When the department no longer needs acquired property for departmental purposes, it may sell the excess property by advertisement to the highest bidder after advertisement; however, the department is required to first offer to sell the property at private sale to the its vendor or vendor's successors in title upon payment of appraised market value. **House Bill 1150 by Representative Harris (Act 464)** authorizes the department for property amicably acquired subsequent to July 1, 2016, and identified as an uneconomic remainder at the time of acquisition, to dispose of such property without first offering it back to original owners or descendants.

#### Public-Private Partnerships

The Louisiana Transportation Authority is authorized to impose tolls and to enter into public-private partnerships to construct state designated transportation projects. To date, the Authority has undertaken only one project, the Leeville Bridge on Louisiana Highway 1, a toll bridge.



**Senate Bill 159 by Senator Cortez (Act 169)** effective May 19, 2016, limits the Authority to undertaking a state designated transportation improvement designated as a Priority "A" or "B" Megaproject in the 2015 Louisiana Statewide Transportation Plan.

**Senate Bill 195 by Senator Cortez (Act 519)** effective June 13, 2016, expands public-private partnership authority to authorize the department to solicit and enter into public-private partnership contracts.

#### Tolls

**House Resolution 178 by Representative Hunter (Sent to the Secretary of State)** requests DOTD to evaluate and report on the feasibility of tolling highways and bridges in Louisiana, including but not limited to information regarding certain past tolling operations in Louisiana, and implemental local option motor fuel taxes.

Tolls authorized by the Louisiana Transportation Authority pay the debt service on bonds sold to construct the Leeville Bridge on Louisiana Highway 1. The following bills were proposed to exempt payment of tolls by certain groups. When the Legislature exempts payment of tolls, it potentially impairs the bond indenture and the ability of the authority to collect sufficient toll revenue to pay the annual debt service. The department pays the operating costs of the Leeville Bridge from the Transportation Trust Fund.

**House Bill 641 by Representative Gisclair (Pending Senate Transportation, Highways, and Public Works)** proposed to exempt World War II veterans from payment of tolls to cross the Tomey J. Doucet Bridge.

**Senate Bill 392 by Senator Chabert (Pending House Transportation, Highways, and Public Works)** proposed to exempt residents of Port Fourchon in ZIP code from payment of tolls to cross the Tomey J. Doucet Bridge.

#### Reorganization

The office of multimodal commerce created by **Act 719 of the 2014 Regular Session** within the department is effective July 1, 2016. To date, the governor has not appointed the commissioner of multimodal commerce; however, an appointment is expected by the end of June 2016.

**Senate Bill 22 by Senator Chabert (Act 324)** changes the chair of the Multimodal Commerce Advisory Commission from the commissioner of the division of administration to the commissioner of multimodal commerce.

#### Road Transfers

In an effort to "right size" the state highway system, the department instituted a program to improve and remove state highways from the state highway system and to transfer the roads to municipal and parish road systems.

**House Bill 1057 by Representative Havard (Act 458)** provides that as a condition of road transfers, the department may provide a thing of value, including but

not limited to credits toward future construction projects, payment of funds, or satisfaction of debt owed to the department provided such thing of value is equal to the amount of the present value of a forty-year projected future maintenance cost of the road and may be funded as a capital project. Any condition of transfer shall be reduced to writing.

#### Special Permits

The department sells permits that authorize movement of oversize and overweight vehicles on the state highway system for a fee, subject to certain requirements. Overweight vehicles damage highway and bridge infrastructure. Special permits are complex and the fees charged and collected often do not cover the cost of damage to the highway and bridge infrastructure. The state has some eight thousand bridges on the state highway system and many are past their fifty-year design life, often necessitating bridge closure for safety reasons and long detours for travelers. Permit loads increase highway and bridge replacement and maintenance costs in the face of dwindling resources. Consolidation and simplification of statutes governing issuance of special permits and permit fee costs is needed.

**House Concurrent Resolution 105 by Representative Havard (Sent to the Secretary of State)** creates a nine member Special Permit Task Force to meet and make recommendations to the legislature by February 1, 2017, relative to special permits. The department is charged to chair and staff the task force with various stakeholder groups as members. The first meeting of the Task Force is scheduled for July 29, 2016.

**House Bill 704 by Representative Havard (Act 441)** authorizes operation of a vehicle with a special permit on interstate highways at night upon request of the owner or operator.

**House Bill 1016 by Representative Gisclair (Act 371)** extends until July 31, 2018, authorization for ready-mixed concrete trucks to exceed the maximum permissible gross weight, without penalty, provided the total excess weight is 10% or less of the trucks maximum permissible gross weight, the truck contains a certificate evidencing its most recent mixer chip-out of build-up occurred within the previous 90 days, the truck does not exceed the posted load while crossing a posted bridge, the truck is not operating on the interstate system, and no tire on the truck exceeds its tire weight rating.

**House Bill 1058 by Representative Thibaut (Subject to call - Senate Final Passage)** proposed to create annual permits for ready-mix concrete trucks.

#### Railroads

**House Bill 356 by Representative Leger (Subject to Call - House Final Passage)** proposed to renew the Freight Railroad Intermodal Grant Program and to allow use of transportation trust funds for the program but to prohibit use of transportation trust funds for private railroad operating costs.

**House Bill 357 by Representative Leger (Act 658)** effective June 17, 2016, authorizes the department to utilize federal funds for state rail freight service assistance to provide financial assistance to any private or public person of corporation upon submission by the department of a report to the House and

Senate committees on transportation, highways, and public works prior to application for federal funds.

## **OFFICE OF MOTOR VEHICLES**

### **DRIVER'S LICENSES**

#### Debt Recovery

The office of motor vehicles began pursuing collection of fees charged to drivers who allowed liability insurance to lapse. The office pursued collection on drivers' records dating back 30 years to 1986. Multiple instruments were filed by members to address the concerns of citizens raised by the collection effort in the face of the state's financial crisis. Most citizens viewed the effort as a "money grab". Proposals such as amnesty, offer in compromise, debt forgiveness, and reduction of fees failed to advance. Only **House Bill 245 by Representative Marcelle (Act 397)** effective June 8, 2016, was enacted. **House Bill 245** authorizes the office to enter into installment agreements with debtors and to restore driving privileges upon execution of the installment agreement.

**Senate Concurrent Study Request 3 by Senator Barrow (Approved)** requests the House and Senate committees on transportation, highways, and public works to conduct a study jointly to consider whether some form of amnesty program is appropriate to assist Louisiana citizens to clear their past debts, and the requirements of such program; whether the office of motor vehicles should have authority to compromise past due obligations and the parameters for compromise; the length of time the office of motor vehicles should be able to pursue final



debt; the efficacy of the office of motor vehicles' current notification system due to lapse of liability insurance; the time period insurance companies and policy holders should be required to retain documentation of insurance; and any other matters relative to the assessment and collection of fees and prescriptive periods applicable to debt.

**Senate Bill 95 by Senator Ward (Act 197)** retains requirements for a driver to provide proof of insurance but prohibits issuance of a citation resulting in a penalty, fine, or fee for failure to have proof of compulsory liability insurance contained in the motor vehicle if the law enforcement officer is able to electronically verify that the owner or operator has motor vehicle liability security currently covering the vehicle at the time of issuance of the citation.

#### Designations

**Senate Bill 444 by Senator Erdey (Act 394)** provides for placing "100% DAV" designation on Louisiana driver's license and special identification card.

#### Digitized Driver's License

**House Bill 481 by Representative James (Act 625)** authorizes a driver to download and display a digitized driver's license, in lieu of a physical driver's license, in connection with a traffic stop. The office of motor vehicles is developing an application to display a driver's license; the fee to install the app shall not exceed six dollars. The digitized driver's license app will not be immediately available but is to operate similar to display of proof of insurance on a cell phone or other electronic device in real time.

#### Hardship Licenses

Current law allows the Department of Revenue to suspend a citizen's driver's license for failure to pay Louisiana income tax and prohibits the office of motor vehicles from granting a hardship license until the tax is paid. Thinking it fundamentally unfair that a person convicted of driving while intoxicated may obtain a hardship license, **House Bill 1134 by Representative Hazel (Act 607)** requires issuance of hardship license to persons whose driver's license is suspended for non-payment of state taxes.

#### Instructional Permit for Driver's Education Students

**House Bill 1138 by Representative Montoucet (Act 317)** requires a person who is of age to participate in the classroom instruction portion of a driver education course, a driver training program, or a prelicensing training course to apply to the office of motor vehicles for issuance of a Class "E" temporary instructional permit for driver's education students.

#### Real ID

Both effective June 14, 2016, **Senate Bill 227 by Senator Colomb (Act 496)** and **House Bill 702 by Representative J. Harris (Act 505)** provides for an option for a Louisiana resident to apply for and receive issuance of either a REAL ID compliant driver's license or special identification card.

### **MOTOR VEHICLES**

#### Distracted Driving

Despite the prohibition against texting

while driving, Louisiana citizens continue to text and drive, creating unsafe driving conditions, and often leading to accidents with consequences leading to serious injury and death as well as property damage.

**Senate Bill 91 by Senator Colomb (Act 472)** effective June 13, 2016, seeks to deter driver behavior by increasing penalties for texting or viewing social media while driving. The penalty for a first violation increases from a fine of up to \$175 to a fine of up to \$500, and for each subsequent violation from a fine of up to \$500 to a fine of up to \$1,000.

Persons who hold a Class "E" learner's license or intermediate license may not operate a motor vehicle on any public road or highway of this state while using any wireless telecommunications device to engage in a call, unless the device is a hands-free wireless telephone. **Act 472** increases the penalty for a first violation from up to \$175 to a fine up to \$500, and for each subsequent violation from a fine up to \$500 to a fine up to \$1,000.

Persons 17 years of age or younger may not operate a motor vehicle on any public road or highway in this state while using any wireless telecommunications device to engage in a call or write, send or read a text-based communication. **Act 472** increases the penalty for a first violation from up to \$100 to a fine up to \$250, and for each subsequent violation from up to \$250 to \$500 and a suspension of driver's license for a sixty-day period.

In a school zone, **Act 472** increases the penalty for a first violation from up to \$175 to up to \$500, and for each subsequent violation from \$500 to \$1,000 and a suspension of a driver's license for a 6 day period.

Additionally, \$25 from all fines collected under **Act 472** are distributed to the indigent defender fund of the judicial district in which the citation is issued.

#### Mobility Hang Tags

**House Bill 109 by Representative Terry Brown (Act 21)** authorizes issuance of multiple hang tags for persons with mobility impairments.

#### Military Honor License Plates

**Senate Bill 389 by Senator Erdey (Act 194)** creates the "100% DAV" military honor license plate.

**House Bill 355 by Representative M. Johnson (Act 137)** creates the "Bronze Star Medal" recipients military honor license plate.

#### Prestige License Plates

**House Bill 127 by Representative Stokes (Act 237)** creates the United States Merchant Marine Academy, Kings Point, prestige license plate.

**House Bill 128 by Representative Terry Brown (Act 24)** added requirements to qualifications for a commissioned police officer special prestige license plate (R.S. 47:463.111).

**House Bill 248 by Representative Carmody (Act 26)** added motorcycles to the types of vehicles eligible for the "In God We Trust" special prestige license plate (R.S. 47:463.109).

**House Bill 572 by Representative Smith (Act 660)** authorizes the office of

motor vehicles to provide the name, address, and birth date to the university designated by an applicant who applies for a special college and university license plate, changes the annual fee for the plate from a royalty fee to a charitable donation to the institution by the applicant, and increases the fee from \$26 to \$51.

**House Bill 924 by Representative Coussan (Act 261)** creates the "Louisiana The Energy State" prestige license plate and dedicates a \$25 royalty fee to the Oilfield Site Restoration Fund created in R.S. 30:86; **Act 261** also creates special prestige license for members of congress representing Louisiana and provides for a one-time \$25 fee in addition to the standard motor vehicle license tax.

**House Bill 1003 by Representative Zeringue (Act 156)** creates the K9s4COPS" special prestige license plate and establishes a \$25 royalty fee distributed to K9s4COPS to place fully trained canines to law enforcement agencies and schools in Louisiana.

**House Bill 1010 by Representative Devillier (Act 296)** decreases the annual royalty fee for the "Lung Cancer Alliance" special prestige motor vehicle license plate from \$50 to \$25.

#### Seat Belts

**House Bill 751 by Representative Leger (Act 445)** increases fines for seat belt violations for conviction of a first offense from \$25 to \$50 inclusive of all court costs; for conviction of a second offense from \$50 to \$75 inclusive of all court costs; and for conviction of a third offense and any subsequent offense, from \$50 to \$75 plus all

costs of court.

#### Special Vehicles

**House Bill 855 by Representative Huval (Act 260)** authorizes the operation of golf carts on roadways within Lake Fausse Pointe State Park.

#### **2016 Second Extraordinary Session**

Despite a \$12.7 billion dollar backlog in highway and bridge needs, the call for the Second Extraordinary Session still included **NO** items to increase the excise tax on gasoline and special fuels or other revenue raising measures to raise revenue for highways, bridges, and infrastructure. The governor's address to the Legislature represented that solving the state's budget crisis must come first; however, the governor said that the Transportation Trust Fund was kept whole and that funding for the Port Construction and Development Priority Program was doubled in **House Bill 2 by Representative Abramson (Act 16)** effective July 11, 2016.

On June 7, 2016, the governor issued **Executive Order Number JBE 2016-23** which creates the Governor's Task Force on Transportation Infrastructure Investment. The Task Force's duties are to research, identify, and make specific actionable recommendations for achieving sufficient increased levels of recurring funding to address the transportation backlog in highway and bridge maintenance need in Louisiana and to research, identify, and make specific actionable recommendations for legislation to be introduced in 2017 to fund a robust, multimodal construction program to address immediate needs to preserve the state's

investments in infrastructure and build "mega-projects" included in the Louisiana Statewide Transportation Plan, Priority A and Priority B. The Task Force is to submit a report to the Governor on or before January 1, 2017.

#### Priority Programs

**House Bill 2 by Representative Abramson (Act 16)** the Capital Outlay Bill includes funding for the following department programs:

Highway Program	<b>\$751,618,954</b>
Non-Federal Aid Eligible Highway Program	<b>58,800,000</b>
Port Construction and Development Priority Program	<b>39,400,000</b>
State Aviation and Airport Improvement Program	<b>29,104,842</b>
Statewide Flood Control Program	<b>10,120,919</b>

**House Bill 3 by Representative Abramson (Act 15)** effective July 9, 2016, the Omnibus Bond Authorization Act of 2016 authorizes the sale of general obligation bonds in the Capital Outlay Bill, including general obligation bond project appropriations for the department.

**House Bill 52 by Representative Abramson (Act 17)** effective July 11, 2016, provides for execution and administration of the capital outlay appropriations for FY 2016-2017.

## Wildlife & Fisheries

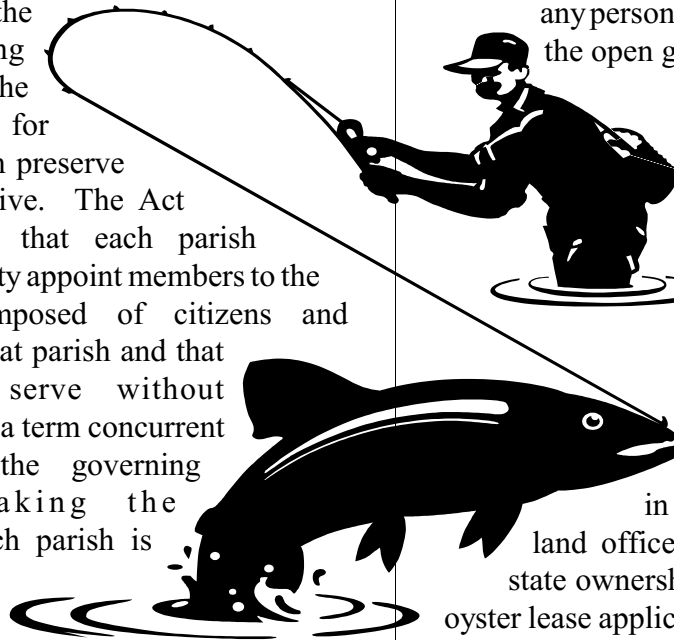
by: Alan Miller  
(225) 342-2576

### 2016 First Extraordinary Session

None

### 2016 Regular Session

**Senate Bill 261 by Senator Juneau (Act 173)** authorizes two or more parish governing authorities, by separate formal resolutions, to establish, maintain, and operate game and fish preserves composed of contiguous lands or waterbodies shared by the parishes. The Act requires that all the parish governing authorities adopt the formal resolution for the game and fish preserve to become effective. The Act further provides that each parish governing authority appoint members to the commission composed of citizens and taxpayers from that parish and that the members serve without compensation for a term concurrent with that of the governing authority making the appointment. Each parish is required to have an equal number of commission members unless some other composition is adopted by formal resolution adopted by all the parish governing authorities. The Commission is authorized to make rules and regulations for the government, regulation, and control of the preserve and for the conservation, protection, and propagation of



game and fish in the preserve, provided that these rules and regulations are approved, adopted, and promulgated by the La. Wildlife and Fisheries Commission

**House Bill 178 by Representative Stuart Bishop (Act 240)** re-creates the Dept. of Wildlife and Fisheries through July 1, 2021.

**House Bill 179 by Representative Melinda White (Act 7)** adds "blaze pink" as an alternative to hunter orange to be displayed on any person hunting any wildlife during the open gun season.

**House Bill 902 by Representative Leopold (Act 595)** provides a process by which the oyster lease moratorium can be lifted.

The Act requires that prior to commencement of any of the phases delineated in the legislation, the state land office make a determination of state ownership of all water bottoms for oyster lease applications submitted before the imposition of the moratorium and the department take appropriate actions resulting from the determination. Also establishes a process of allowing preferential rights to be claimed or forfeited in the following order prior to the lifting of the moratorium:

Phase One – applies to those leases that were not renewed since Jan. 1, 1996, due to the lease being located in the operational or impact area of a planned coastal project and to those that were voluntarily given up between Jan. 1, 1996 and Oct. 19, 2004, and were a party to the class action Avenal suit. Provides that the lessee of record at the time the lease was not renewed be given first right of refusal for a new lease for the previously leased acreage. Requires approval by the secretary of the Dept. of Wildlife and Fisheries and the secretary of the Dept. of Natural Resources. Proposed law changes the approval from the secretary of the Dept. of Natural Resources to the executive director of the CPRA. Requires the Dept. of Wildlife and Fisheries to post on their website for 60 days a list of non-renewed leases eligible for re-leasing. Applications must be filed prior to the end of the 60 days.

Phase Two – Incorporation of adjacent water bottoms. Authorizes a lessee to expand an existing lease by incorporating immediately adjacent water bottom. Limits the incorporation to 500 feet beyond the existing boundary and only toward previously existing coastline as of Jan. 1, 2016 as shown in the 2015 U.S. Dept. of Agriculture, Farm Service Agency, Aerial Photography Field Office, National Agriculture Imagery Program 4 band aerial imagery for Louisiana, 1 meter resolution (the "2015 NAIP imagery"), located within 1,000 feet of the lease boundary, or another existing lease. Prohibits expansion toward another lease that is more than 500 feet away. If there is 500 feet or less between two leases, the incorporation area shall be divided equally. If there are more than two leases, the lessees must provide to the Dept. of Wildlife and Fisheries a written, signed agreement for dividing the area among the lessees. Requires the Dept. of Wildlife and Fisheries to post on

its website for 180 days notice of the availability of lease expansions. If a lessee does not apply to exercise the right to incorporate adjacent water bottoms within that period of time, he forfeits his right to do so.

Phase Three – Right of first refusal for leases under private leases. Specifies that for any water bottom claimed by a private person that is under a private oyster lease recorded in the public records in the parish where the water bottom is located by Feb. 1, 2016, the lessee of that water bottom will have the right of first refusal for a new state lease on any water bottom claimed by the state within the area of the existing private oyster lease. Requires the Dept. of Wildlife and Fisheries to post on its website for 60 days the notice of such right of first refusal ability. Any lessee that does not apply for a state lease within the 60-day time period shall forfeit his right to a state lease under this phase.

Phase Four – First lottery for appointment for new leases. Requires the Dept. of Wildlife and Fisheries to establish a lottery system for submitting applications for new leases. Requires posting on the department website for 60 days a notice of the lottery and deadline for entering the lottery which shall be the 60th day of the posting. If a person does not apply within the 60 days, he forfeits his right to apply for a new lease under this phase. Requires the department to randomly assign a priority to all lottery entries and schedule appointments to receive an application for a new lease. If the lottery participant misses his scheduled appointment, he can be rescheduled after all other lottery participants have completed their appointments.

Phase Five – Second lottery for appointments for new leases. Authorizes the department to establish an additional lottery that will be conducted in the same manner as the first.

The Act requires that each phase be taken in order and that each phase cannot begin until all applications under the previous phases are received. Limits the availability of water bottoms eligible for leasing under the two lottery phases to those water bottoms for which there is not a pending application under any of the earlier phases.

The Act requires that upon implementation of all phases outlined in this Act, the Louisiana Wildlife and Fisheries Commission promulgate and implement the rules necessary to lift the oyster leasing moratorium.

**House Bill 1130 by Representative Garofalo (Act 570)** authorizes the Dept. of Wildlife and Fisheries to enter into an agreement with a private claimant whereby certain water bottoms may, in cooperation between the state and the private claimant, be leased to a third party for the cultivation and harvest of oysters. Specifies that any such agreement does not in any way indicate or determine ownership of the water bottom nor does the agreement allocate or designate ownership of mineral rights beneath the water bottom. Authorizes the Dept. of Wildlife and Fisheries to promulgate the processes by which the agreements will be negotiated and administered.

The Act provides that an agreement may originate with either the department or the private claimant; requires annual rental payments to be made to the department; and specifies that except for a determination of state ownership, the lease is subject to the

provisions in law that govern oyster leasing in addition to any other conditions of the agreement between the state and the private claimant.

The Act specifies that the joint agreement between the state and the private claimant remains in effect for the term of any lease issued subject to the agreement or until ownership of the water bottom has been determined by final judgment of the court. Terminates any lease subject to the joint agreement at the time a court has issued a final determination of ownership of the water bottom.

The Act provides that between July 1, 2016, and the final implementation of Phase Three of the oyster moratorium lifting process, oysters found on a vessel owned by the holder of a private oyster lease properly recorded prior to Feb. 1, 2016, are presumed to be legally harvested. Requires a certified copy of the lease to be carried on each vessel harvesting oysters from the private lease.

The Act requires the Dept. of Wildlife and Fisheries to recognize as valid a private oyster lease properly recorded prior to Feb. 1, 2016, until the processing of Phase Three of the oyster moratorium lifting process is complete. Provides that recognizing the validity of such lease is not to be interpreted to indicate ownership of the water bottom or mineral rights beneath the water bottom.

The Act defines "dual claim" as a claim to immovable property for which a private claimant holds title and to which the state claims ownership as a sovereign navigable water bottom but for which title has not been adjudicated.

**House Concurrent Resolution 9 by Representative Thibaut (Sent to the Secretary of State)** establishes a feral hog task force that is charged with the responsibility to make recommendations with respect to issues pertaining to feral hog management efforts, including public awareness programs, to the various state agencies charged with responsibility for managing the feral hogs in this state, including the Dept. of Wildlife and Fisheries, the Dept. of Agriculture and Forestry, and the legislature.

The task force is composed of the following members:

- (1) One member appointed from the staff of the Dept. of Wildlife and Fisheries by the secretary of the Dept. of Wildlife and Fisheries.
- (2) One member appointed from the staff of the Dept. of Agriculture and Forestry by the commissioner of agriculture.
- (3) One member appointed by the secretary of the Dept. of Wildlife and Fisheries from three nominations submitted by the La. Hog Hunters Association.
- (4) One member appointed by the secretary of the Dept. of Wildlife and Fisheries from three nominations submitted by the La. Landowners Association.
- (5) One member appointed by the commissioner of agriculture from three nominations submitted by the La. Forestry Association.
- (6) One member appointed by the secretary of the Dept. of Wildlife and Fisheries from three nominations submitted by the La. Quality Deer Management Association.
- (7) One member appointed by the dean of the LSU College of Agriculture from the faculty of the LSU College of Agriculture.
- (8) One member appointed by the secretary of the Dept. of Wildlife and Fisheries from three nominees submitted by the La. Assoc. of Prof. Biologists-La. Chapter of The Wildlife Society.
- (9) One member appointed by the commissioner of agriculture from three nominations submitted by the La. Farm Bureau Federation.
- (10) One member appointed by the secretary of the Dept. of Wildlife and Fisheries from three nominations submitted by the Association of Levee Boards of La.
- (11) One member appointed by the secretary of the Dept. of Wildlife and Fisheries from three nominees submitted by the Wildlife Research Institute.

**2016 Second Extraordinary Session**

None