

**2016 LOUISIANA**

**LEGISLATIVE ACTS**

**SUMMARY**

## 2016 LEGISLATIVE ACTS SUMMARY

### Contents

This book summarizes all of the new laws passed by the Louisiana Legislature in 2016, not just those that were deemed material to SPWW's practice of law. The summaries of many laws that were deemed not material to our practice, however, have been shortened considerably. If you particularly like or dislike this approach, please let Mike Landry know.

### Organization

The book is organized in a logical fashion. Please see the Table of Contents. In addition, the appendices contain various summaries prepared by other organizations, as well as a very brief summary of all of the Acts passed in 2016 in Act number order.

### Warning

The summaries are not intended to substitute for careful examination of a new law itself, if it is at issue. Our summaries are based on more detailed summaries prepared by the Legislative staff, which are available at [www.legis.state.la.us/home.htm](http://www.legis.state.la.us/home.htm) (scroll down to "Bill Search", search by "ACT" rather than "HB", and print the latest "Digest"). We have not attempted to verify the accuracy of the summaries prepared by the Legislative staff; we have simply edited them down. The summaries prepared by other organizations obviously vary widely in quality, scope, and perspective.

### Effective Dates of Acts

Under La. Const. Art. 3, Section 19, except as may be otherwise specified in an act itself, (i) all laws enacted during a *regular session* of the legislature take effect on *August 15<sup>th</sup>* of the calendar year in which the session is held, and (ii) all laws enacted during an extraordinary session of the legislature take effect on the 60<sup>th</sup> day after final adjournment of the extraordinary session. The final adjournment of the 2016 *1<sup>st</sup> Extraordinary Session* occurred on March 9, 2016; the 60<sup>th</sup> day after that was *May 8, 2016*. The final adjournment of the 2016 *2<sup>nd</sup> Extraordinary Session* occurred on June 23, 2016; the 60<sup>th</sup> day after that was *August 22, 2016*.

### Where to Find Full Text of Acts and Laws

All Acts are available at [www.legis.state.la.us/home.htm](http://www.legis.state.la.us/home.htm) (scroll down to "Bill Search" and search by "ACT" rather than "HB").

All Louisiana laws, once codified, are available at [www.legis.state.la.us/tsrs/search.htm](http://www.legis.state.la.us/tsrs/search.htm).

### Feedback

If you have any thoughts on how this book might be improved, please send an email to Mike Landry, John Farnsworth, or Larry Orlansky. We would like to make the book as useful as possible.

### Credits

**Emily Brewer, Stephanie Rogan, Tanya Lamartiniere, Betty O'Neil, Lori Kapit, and Peggy Field** – despite full workloads and computers that hamper the process, downloaded 729 legislative staff summaries from the Legislature's website, implemented multiple rounds of edits, searched for and printed out summaries by other organizations, assembled all of the summaries in proper order and applied formatting in a two-week timeframe (an undertaking that, in past years, is an approximately two-month process)

**Mike Landry** – edited legislative staff summaries for inclusion in book, made all edits, and provided design and oversight

**Brittany Melara** – copied and bound the book for all attorneys and paralegals in the New Orleans

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## **CONSTITUTION**

### **Corporate Income Tax Deduction for Federal Income Taxes (1st E.S. Act 31)**

Prior constitution authorizes federal income taxes paid to be allowed as a deductible item in computing state individual and corporate income taxes for the same period.

Proposed constitutional amendment eliminates the deductibility of federal income taxes paid when computing corporate income tax liability.

Applicable to all tax years beginning on and after Jan. 1, 2017.

Statewide election to be held Nov. 8, 2016.

(Amends Const. Art. VII, §4(A))

### **Registrars of Voters (Act 677)**

Present constitution provides that the governing authority of each parish shall appoint a registrar of voters, whose compensation, removal from office for cause, bond, powers, and functions shall be provided by law; provides that upon qualifying as a candidate for other public office, a registrar shall forfeit his office; and provides that no law shall provide for the removal from office of a registrar by the appointing authority.

Proposed constitutional amendment provides that the manner of appointment and the qualifications of the registrar of voters for each parish shall be as provided by law.

Statewide election to be held Nov. 8, 2016.

(Amends Const. Art. XI, §5)

### **Property Tax Exemption (Act 678)**

Existing constitution authorizes ad valorem taxes due in 2017 and thereafter for the total assessed value of the property of the unmarried surviving spouse of a person who died while on active duty as a member of the U.S. armed forces or La. National Guard, or while performing their duties as a state police officer,

or a law enforcement or fire protection officer who qualified for state supplemental pay.

Proposed constitutional amendment requires for the exemption:

(1) The property must be eligible for the homestead exemption and the property must have been the residence of the member of the armed services or La. National Guard, or the state police, law enforcement, or fire protection officer when he or she died.

(2) The surviving spouse has not remarried.

(3) The surviving spouse annually provides evidence of eligibility for the exemption.

Proposed constitutional amendment further authorizes a continuance of the exemption for a different property under certain circumstances.

Statewide election to be held Nov. 8, 2016.

(Adds Const. Art. VII, §21(M))

### **Revenue Stabilization Trust Fund (Act 679)**

Proposed constitutional amendment establishes the Revenue Stabilization Trust Fund as a special treasury trust fund.

Proposed constitutional amendment provides for the allocation of annual mineral revenues between \$660 million and \$950 million, and mineral revenues that would have been deposited into the Budget Stabilization Fund but are not because the fund has reached its maximum, as follows:

(1) 30% of mineral revenues are appropriated to the Louisiana State Employees' Retirement System and the Teachers' Retirement System of Louisiana towards the balances of the unfunded accrued liability of such systems existing as of June 30, 1988, until the balances are eliminated.

(2) The remainder are deposited into the Revenue Stabilization Trust Fund.

Proposed constitutional amendment excludes allocations to and deposits of mineral revenues to 13 specified funds required under existing constitution and existing law from the allocation of mineral revenues in the proposed constitutional amendment.

Proposed constitutional amendment includes severance taxes, royalty payments, bonus payments, or rentals in the definition of mineral revenues, excluding nonrecurring revenues, grants or donations when the terms or conditions require otherwise, and revenues from a tax on the transportation of minerals.

Proposed constitutional amendment deposits into the fund corporate income and franchise tax revenues over \$600 million received during the fiscal year.

Proposed constitutional amendment authorizes investment of the money in the fund in the same manner as investments of the Millennium Trust as provided for in existing law.

Proposed constitutional amendment deposits into the state general fund all interest and other income earned on investments of the fund.

Proposed constitutional amendment prohibits any appropriations from the fund, except:

(1) In any fiscal year in which the balance of the fund at the beginning of the year is in excess of \$5 billion, the legislature may appropriate an amount not to exceed 10% of the fund balance, for (a) capital outlay projects in the comprehensive state capital budget, and (b) transportation infrastructure.

(2) The legislature may authorize an appropriation from the fund at any time for any purpose subject to consent of 2/3 of the elected members of each house of the legislature.

Proposed constitutional amendment authorizes changes to the \$5 billion or the 10% figures by a law enacted by 2/3 of the elected members of each house of the legislature.

Statewide election to be held Nov. 8, 2016.

(Adds Article VII, §10(F)(4)(h), 10.15, and 10.16)

### **Public University Tuition and Fees (Act 680)**

Present constitution requires that all new fees or increases of existing fees imposed by the state or any board, department, or agency of the state be enacted by a 2/3 vote of the legislature, including tuition and fees charged to students attending public postsecondary education institutions.

Proposed constitutional amendment authorizes the respective boards of supervisors of the LSU system, the Southern University system, the University of Louisiana system, and the Community and Technical Colleges system to establish the tuition and mandatory fee amounts charged by the institutions under their supervision and management without legislative approval.

Statewide election to be held Nov. 8, 2016.

(Adds Const. Art. VIII, §7.2)

### **Budgeting, Appropriations, and Expenditures (Act 681)**

Present constitution provides that when 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, in order to avoid a budget deficit in the next fiscal year, an amount not to exceed 5% of the total appropriations or allocations for the current fiscal year from any statutory or constitutional fund shall be available for expenditure in the next fiscal year for a purpose other than as specifically provided by law or this constitution.

Proposed constitution provides that when 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, or at any time when the official forecast of recurring revenues for the next fiscal year has been reduced by at least 1% from the most recently adopted estimate for the ensuing fiscal year, the

following procedures may be employed to avoid a budget deficit in the next fiscal year:

(1) An amount not to exceed 5% of the total appropriations or allocations for the current fiscal year from any fund established by law or the constitution shall be available for expenditure in the next fiscal year for a purpose other than as specifically provided by law or the constitution.

(2) An amount not to exceed 1% of the balance in the current fiscal year from any fund established by the constitution shall be available in the next fiscal year for a purpose other than as specifically provided by law or the constitution.

Present constitution provides that monies made available as authorized under this provision may be transferred to a fund for which revenues have been forecast to be less than the revenues in the current fiscal year for such fund.

Proposed constitution adds that monies may also be transferred to a fund at any time when the official forecast of recurring revenues for the next fiscal year has been reduced by at least 1% from the most recently adopted estimate for the ensuing fiscal year.

Present constitution provides that monies transferred as a result of the budget actions authorized by present constitution are deemed available for appropriation and expenditure, but in no event shall the aggregate amount of any such transfers exceed the amount of the difference between the official forecast for the current fiscal year and the next fiscal year.

Proposed constitution provides that the aggregate amount of such transfers shall not exceed, instead, the projected deficit for the next fiscal year due to the reduction in the official forecast.

Present constitution provides for certain exceptions to transfers of monies to avoid a budget deficit. Proposed constitution 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.

Statewide election to be held on November 8, 2016.

(Amends Const. Art. VII, Sec. 10(F)(2) and (4))

## **CIVIL CODE**

### **Cancellation of Mortgages (Act 76)**

New law mandates that the recorder of mortgages, upon receipt of a written signed application, cancel a recordation of a mortgage, pledge, or privilege that has prescribed by lapse of time under R.S. 9:5685.

Effective August 1, 2016.

(Amends C.C. Art. 3367)

### **Paternity (Act 309)**

New law changes the commencement of the period for disavowal of paternity 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.

Existing law provides a presumption of paternity when a man marries the mother and the child is not filiated to another man and he acknowledges the child. Existing law also provides for the disavowal of paternity of a child who was acknowledged by authentic act. New law adds that a revocation of the authentic act of acknowledgment alone is not sufficient to rebut the presumption.

Prior law provided for the revocation of authentic acts of acknowledgment and provided for a two-year prescriptive period. New law deletes the two-year prescriptive period to bring the law into compliance with *Succession of Robinson*, 654 So.2d. 682 (La. 1995).

New law provides for the necessary joinder of parties to a filiation and paternity proceeding, modifying the provisions of R.S. 40:34.

Effective August 1, 2016.

(Amends C.C. Arts. 189, 191, 195, and 196 and R.S. 9:406; Adds R.S. 9:408)

### **Mental Disability (Act 115)**

Existing law requires the use of standard testing procedures administered by competent persons to establish that a person above the age of 15 possesses less than 2/3 of the average mental ability of a person of the same age. New law allows the court to consider other relevant evidence in addition to standard testing procedures and updates archaic language.

Existing law requires that in order to continue the tutorship of a person above the age of 15, there must be concurrence of the coroner of the parish of the mentally deficient person's domicile. New law clarifies that the petitioner shall not bear the coroner's costs or fees associated with securing the coroner's concurrence.

Effective August 1, 2016.

(Amends C.C. Art. 355)

### **Children Born Outside of Marriage (Act 210)**

New law replaces the term "illegitimate child" with "child born outside of marriage".

Effective August 1, 2016.

(Amends C.C. Arts. 256(A) and (C) and 261)

### **Acts Evidencing Privilege and Acts of Conveyance (Act 227)**

Prior law required all parties' birth dates on documents or acts evidencing a privilege that are filed for recordation. New law eliminates this requirement.

Present law requires that an act of sale of immovable property or attachment thereto filed for registry in the office of the parish recorder designate the name of the person responsible for all property taxes and assessments and include the address where property tax and assessment notices are to be mailed. New law expands the requirements to any act of conveyance.

(Amends R.S. 9:2721; Repeals C.C. Art. 3275)

### **Sexual Assault Tort Prescription (Act 629)**

Existing law provides for a two-year prescriptive period to bring an action against a person for damages sustained from a crime of violence.

New law extends the two-year prescriptive period to three years for a delictual action against a person for sexual assault and provides for the commencement of the prescriptive period.

Effective August 1, 2016.

(Amends C.C. Art. 3493.10; Adds C.C. Art. 3496.2)

### **In Vitro and Inheritance (Act 495)**

Existing law provides that as a juridical person, an embryo or child born as a result of in vitro fertilization and in vitro fertilization ovum donation does not retain any inheritance rights from the in vitro fertilization patients.

New law adds that notwithstanding the in vitro fertilization process:

(1) A child conceived by gametes donated shall not inherit from the individual donors of the gametes used in the in vitro fertilization process, unless the donor would be a person from whom the child could inherit under existing law.

(2) A child conceived by gametes donated by an individual shall not be a forced heir, unless the individual would be an ascendant of the first or second degree.

Effective August 1, 2016.



(Amends R.S. 9:133; Adds C.C. Art. 1493.1)

## **CODE OF CIVIL PROCEDURE**

### **Civil Procedure – Various Rules (Act 132)**

Present law (C.C.P. Arts. 1458, 1462(B)(1), 1465.1(B), and 1467(A)) provides for a 15-day time period within which to respond to discovery requests. New law extends the time period within which to respond to discovery requests to 30 days.

Present law (C.C.P. Art. 2541) provides for the enforcement of foreign and domestic judgments by a Louisiana court. New law clarifies that unlike state and federal judgments, judgments of a foreign country may not be enforced pursuant to R.S. 13:4241.

Present law (C.C.P. Art. 2642) provides for the signing of the order of seizure and sale as the commencement of the delay for taking a suspensive appeal from the order. New law changes the commencement of the suspensive appeal delay under present law to run upon service of the notice of seizure as provided in Article 2721.

Present law (C.C.P. Art. 2721) provides for the required contents of the notice of seizure of property. New law adds that the notice of seizure shall reproduce in full the provisions of Article 2642.

Present law (R.S. 13:3852(B)) provides the form that shall be used by the sheriff for the notice of seizure of property. New law reproduces in full the provisions of C.C.P. Art. 2642 within the notice of seizure of property required under present law.

Present law (R.S. 13:4611) provides the penalties that may be imposed in a civil contempt of court proceeding. New law adds an award of attorney fees to the prevailing party in a civil contempt of court proceeding to the penalties permitted under present law.

(Amends C.C.P. Arts. 1458, 1462(B)(1), 1465.1(B), 1467(A), 2541, 2642, and 2721(B), and R.S. 13:3852(B); adds R.S. 13:4611(1)(g))

### **Judgments of Interdiction (Act 122)**

New law adds the requirement that judgments of interdiction include the defendant's name, domicile, age, and current address.

Effective August 1, 2016.

(Amends C.C.P. Art. 4551(A))

### **Foreign Guardianships (Act 333)**

New law enacts the Louisiana Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJ) and provides new procedures, largely drawn from a uniform act, for foreign curatorships and guardianships to be recognized and exercised in Louisiana.

Prior law provided that a state court has jurisdiction for an interdiction proceeding if the person sought to be interdicted is domiciled in this state, or is in this state and has property in this state. New law provides state court jurisdiction for an interdiction proceeding brought pursuant to UAGPPJ.

New law retains state court jurisdiction over a tutorship or curatorship proceeding for minors or absentees who are either domiciled in or own property in the state.

Prior law provided for a conservator, who has produced proof of his appointment, of a ward residing outside of the state to appear in court on behalf of the ward without qualifying as a curator in Louisiana when no curator has been appointed in the state.

New law removes the qualification that the ward reside outside of Louisiana and replaces the term "ward" with the term "protected person".

Effective August 1, 2016.

(Amends C.C.P. Art. 10(A)(3) and (4) and Art. 4556; adds R.S. 13:4251.101-4251.106,

4251.201-4251.209, 4251.301, 4251.302,  
4251.401-4251.403, 4251.501-4251.504)

## **CODE OF CRIMINAL PROCEDURE**

### **Attempted Rape of Minor – Deadline to Prosecute (Act 41)**

New law adds attempted first 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.

Present law provides that this 30-year period begins to run when the victim attains the age of 18.

(Amends C.Cr.P. Art. 571.1)

### **Video Voyeurism – Deadline to Prosecute (Act 352)**

New law provides that time limitations for the crime of video voyeurism shall not commence to run until the crime is discovered by the victim, rather than from the time the crime was committed.

Effective August 1, 2016.

(Adds C.Cr.P. Art. 573.2)

### **Obscenity Evidence Custody (Act 82)**

Existing law provides that any property or material alleged to constitute evidence of obscenity, video voyeurism, or pornography involving juveniles shall remain in the care, custody, and control of the court or the district attorney.

New law adds the investigating law enforcement agency to those authorized to have the care, custody, or control of such property or material. New law provides that the material is considered contraband and shall not be disseminated or viewed by anyone not included in new and existing law.

Effective August 1, 2016.

(Amends C.Cr.P. Art. 718.1)

### **Expungement Fees (Act 8)**

New law adds an additional circumstance for the exemption of expungement fees in certain cases when the applicant was determined by the district attorney to be a victim of unauthorized use of an "access card", identity theft, access device fraud, or any other crime which involves the unlawful use of the identity or personal information of the applicant.

(Adds C.Cr.P. Art. 983(F)(5))

### **Expungement (Act 125)**

Existing law provides for the expungement of certain misdemeanor and felony arrest and conviction records under specified circumstances. New law adds an additional opportunity for expungement if the person was determined to be factually innocent and entitled to compensation for a wrongful conviction.

Prior law prohibited an expungement of a conviction for a crime of violence.

New law allows for the expungement of certain crimes of violence including aggravated battery, second degree battery, aggravated criminal damage to property, simple robbery, purse snatching, and illegal use of weapons or dangerous instrumentalities, if (1) more than 10 years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or parole based on the felony conviction, and the person (2) has not been convicted of any other criminal offense during the 10-year period, (3) has no criminal charge pending against him, and (4) has been employed for a period of 10 consecutive years.

Effective upon signature of the governor (May 19, 2016).

(Amends C.Cr.P. Arts. 978, 989, and 992; Adds C.Cr.P. Arts. 976(A)(4))

### **Feliciana Parish Clerks of Court (Act 232)**

New law requires the clerks of court of East Feliciana Parish and West Feliciana Parish to perform the functions of the jury commission in their respective parishes.

(Adds C.Cr.P. Art. 404(F))

### **Credit for Time Served (Act 213)**

Prior law provided for technical parole violations and provided a sentence of not more than 90 days without diminution of sentence or credit for time served prior to the revocation for a technical violation.

New law provides that the defendant shall be given credit for time served prior to the revocation hearing for time served in actual custody while being held for a technical violation in a local detention facility, state institution, or out-of-state institution.

(Amends C.Cr.P. Art. 900(A)(6)(b))

### **Credit for Time Served; New Sentence (Act 214)**

Existing law provides for revocation hearings for violations of probation due to the commission of a second offense.

Prior law provided that no credit shall be allowed for time spent on probation or for the time elapsed during suspension of the sentence.

New law provides that the defendant shall be given credit for time served prior to the revocation hearing for time served in actual custody while being held for a probation violation in a local detention facility, state institution, or out-of-state institution.

Prior law provided that when the new conviction is a Louisiana conviction, the sentence shall run consecutively with the sentence for the new conviction, unless the court originally imposing the suspension or probation specifically orders that the sentences are to be served concurrently.

New law provides that when the new conviction is a Louisiana conviction, the court shall specify in the minutes whether the sentence shall run consecutively or concurrently with the sentence for the new conviction.

Effective August 1, 2016.

(Amends C.Cr.P. Art 901(C))

### **Grand Juries in Orleans Parish (Act 389)**

Prior law provided for drawing grand jury venire and subpoena of veniremen in Orleans Parish. New law repeals this provision of prior law held unconstitutional in *State v. Dilosa*, 848 So. 2d 546 (La. 2003).

Prior law provided for the method of impaneling of grand jury and the selection of a foreman. New law amends prior law to remove the provisions which specifically apply to the impaneling of grand juries in Orleans Parish that were held unconstitutional in violation of prior law by *State v. Dilosa*, 848 So. 2d 546 (La. 2003).

Prior law provided for the time for impaneling grand juries. New law amends prior law to remove the provisions which specifically apply to the time for impaneling of grand juries in Orleans Parish that were held unconstitutional in violation of present law by *State v. Dilosa*, 848 So. 2d 546 (La. 2003).

Prior law provided that in Orleans Parish, a grand jury venire shall be drawn by the jury commission on the date set by the presiding judge. New law repeals this provision of prior law held unconstitutional in *State v. Dilosa*, 848 So. 2d 546 (La. 2003).

Prior law provided for the rotation and selection of grand juries in Orleans Parish. New law repeals this provision of prior law held unconstitutional in *State v. Dilosa*, 848 So. 2d 546 (La. 2003).

Effective August 1, 2016.

(Amends C.Cr.P. Arts. 413(B) and 414(B); repeals R.S. 15:114 and C.Cr.P. Arts. 412 and 414(C))

#### **Bail for Aliens (Act 474)**

New law provides that a contradictory bail hearing must be held prior to setting bail for any person in custody who is not a U.S. citizen or not lawfully admitted for permanent residence and who is charged with the commission of an offense involving a fatality.

New law provides that this hearing is to be held within five days from the date of determination of probable cause, exclusive of weekends and legal holidays. New law provides that at the contradictory hearing, the court is to determine the conditions of bail or whether the defendant should be held without bail pending trial.

New law provides that in determining whether the defendant should be admitted to bail pending trial, or in determining the conditions of bail, the judge or magistrate is to consider specified matters.

New law provides that following the contradictory hearing and based upon the judge's or magistrate's review of the factors set forth in new law, the judge or magistrate may order that the defendant not be admitted to bail, upon proof by clear and convincing evidence that the defendant might flee, or that the defendant poses an imminent danger to any other person or the community.

New law provides that if bail is granted, the judge or magistrate may consider, as a condition of bail, a requirement that the defendant wear an electronic monitoring device and be placed under active electronic monitoring and house arrest.

Effective August 1, 2016.

(Adds C.Cr.P. Art. 330.4)

#### **Crimes of Violence (Act 509)**

New law authorizes the court, upon the written recommendation of the district attorney, to designate in the court minutes that an offense is a crime of violence only for the purpose of determining whether the defendant is eligible for suspension or deferral of sentence or for participation in a drug division probation program.

New law provides that certain offenses shall always be designated by the court as a crime of violence in the court minutes.

(Amends C.Cr.P. Art. 893 and R.S. 13:5304; adds C.Cr.P. Art. 890.3)

#### **Criminal Procedure (Act 613)**

Prior law provided for Title VIII of the Code of Criminal Procedure with respect to bail. New law provides for a revision and reorganization of prior law.

Prior law provided relative to the failure to satisfy a judgment of bond forfeiture. New law provides for revisions with respect to failure to appear, including notice of a warrant of arrest to be sent to a commercial surety by electronic means or certified mail return receipt requested, surrender of the defendant, and the time delays for taking a suspensive appeal, as well as technical corrections to prior law based on the new law reorganization of Title VIII of the Code of Criminal Procedure.

Prior law provided relative to the failure to timely satisfy a claim under a criminal bond contract. New law provides for revisions to prior law with respect to failure to appear, the time delays for taking a suspensive appeal, and surrender of the defendant, as well as technical corrections to prior law based on the new law reorganization of Title VIII of the Code of Criminal Procedure.

Effective January 1, 2017.

(Amends C.Cr.P. Arts. 311-342, R.S. 15:85, R.S. 22:1441; repeals C.Cr.P. Arts. 327.1, 330.1,

330.2, 330.3, 334.1, 334.2, 334.3, 334.4, 334.5, 334.6, 335.1, 335.2, 336.1, 336.2, 343, 344, 345, 346, 347, 348, 349, 349.1, 349.2, 349.3, 349.4, 349.5, 349.6, 349.7, 349.8, and 349.9)

### **Mentor Liability Limited (Act 655)**

New law provides a limitation of liability for any mentor of an offender on probation under the supervision of any court division, for any injury or loss caused or suffered by an offender that arises out of the performance of his duties as a mentor.

New law provides a limitation of liability for the court and any officer, agent, or employee of the court from liability for any injury or loss to the offender, the mentor, or any third party for the actions of the mentor or the offender.

The new law is limitations of liability shall not affect vicarious liability of the employer or the ability of an employee to file a claim for worker's compensation.

Effective August 1, 2016.

(Adds C.Cr.P. Art. 895(O))

## **CODE OF EVIDENCE**

### **Evidence in Sex-Related Offenses (Act 357)**

Present law provides that when an accused is charged with a crime involving sexually assaultive behavior or a crime involving human trafficking or trafficking of children for sexual purposes, reputation or opinion evidence of the past sexual behavior of the victim is not admissible, but also provides for exceptions from the general rule.

Present law provides that when an accused is charged with the crime of aggravated or first degree rape, forcible or second degree rape, simple or third degree rape, sexual battery, or second degree sexual battery, the manner and style of the victim's attire shall not be admissible as evidence that the victim encouraged or consented to the offense.

New law specifies that the present law rules of admissibility of evidence are applicable in both civil and criminal proceedings.

(Amends C.E. Arts. 404(A)(intro. para.) and 412.1; adds C.E. Art. 412(G))

### **Evidence of Past Abusive Behavior (Act 399)**

New law provides that when an accused is charged with a crime involving abusive behavior against a family or household member, or with acts which constitute cruelty involving a minor, evidence of the accused's commission of another crime, wrong, or act involving assaultive behavior against a family or household member, or acts which constitute cruelty involving a minor, may be admissible and may be considered for its bearing on any matter to which it is relevant, subject to the balancing test provided in existing law. The balancing test in existing law provides that although relevant, 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.

New law retains the balancing test of existing law regarding evidence of prior acts of domestic abuse.

Effective August 1, 2016.

(Adds C.E. Art. 412.4)

## **CHILDREN'S CODE**

### **Infant Relinquishment (Act 84)**

Existing law known as the "Safe Haven Law" provides a mechanism whereby any parent may relinquish the care of an infant who is not more than 60 days old to the state in safety and anonymity and without fear of prosecution.

New law requires the Department of Children and Family Services (DCFS) to provide notice to the public of infant relinquishment sites by various means.

New law specifies the design elements of the Safe Haven symbol.

New law authorizes, but does not require, DCFS to produce electronic and physical copies of the Safe Haven symbol with certain specified features.

Effective August 1, 2016.

(Adds Ch.C. Arts. 1160(A)(1)(c) and 1161)

### **Child Protection Representation Commission (Act 153)**

New law adds the chairwoman of the La. Legislative Women's Caucus or her designee as a member of the Child Protection Representation Commission.

Effective August 1, 2016.

(Adds Ch.C. Art. 581(A)(9))

### **Intrafamily Adoptions (Act 175)**

Prior law, relative to intrafamily adoptions, permitted a grandparent or stepgrandparent 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.

New law 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.

New law requires any petitioner and stepgrandparent filing a petition under Ch.C. Art. 1243(B) to undergo the background check provided for in Article 1243.2.

Effective upon signature of the governor. (May 19, 2016)

(Amends Ch.C. Art. 1243(B))

### **Termination of Parental Rights of Sex Offenders (Act 608)**

New law expands the grounds for termination of parental rights to include an individual who has been convicted of or who has committed a sex offense.

New law adds the victim of a sex offense who is a custodial parent to the list of persons who may petition for termination of parental rights when the victim wishes to terminate the parental rights of the perpetrator.

New law allows the petitioner's home address and parish, and that of each person for whom the petition is filed, to remain confidential when filing a petition for termination of parental rights of a sex offense perpetrator.

New law prohibits the collection of court costs from petitioners who seek to terminate parental rights of a sex offense perpetrator. New law provides that the court costs, attorney fees, and other costs shall be paid by the perpetrator of the sex offense.

Effective August 1, 2016.

(Amends Ch.C. Arts. 1007 and 1015; adds Ch.C. Arts. 1004(I) and 1015.1)

### **Transportation of Minors for Treatment (Act 642)**

Existing law provides for issuance of a physician's emergency certificate for treatment of a minor suffering from mental illness or substance abuse, and provides that, if necessary, peace officers shall apprehend and transport, or ambulance services under appropriate circumstances may locate and transport, a minor patient on whom an emergency certificate has been completed, to a treatment facility.

New law adds an authorization for any of the following persons to accompany the minor during transportation to a treatment facility: (1) a parent, including a foster parent, (2) a legal

guardian, and (3) a Department of Children and Family Services case worker.

New law stipulates that a biological parent of a child in foster care shall accompany the child only if approved by the Department of Children and Family Services.

Effective August 1, 2016.

(Amends Ch.C. Art. 1431(D); Adds Ch.C. Art. 1427(C))

### **Child Protection (Act 302)**

New law provides that beginning May 1, 2017 and annually thereafter, the Dept. of Children and Family Services (department) is to provide the legislature certain child-specific information regarding reports of child abuse or neglect reported to the department.

Effective August 1, 2016.

(Amends R.S. 14:403(A)(1)(b); adds Ch.C. Art. 610(H))

## **MULTIPLE CODES OR TITLES**

### **Usufructs and Interdicts (Act 86)**

Existing law provides that a disposition *inter vivos* or *mortis causa* wherein the usufruct is given to one person and the naked ownership to another is permissible under the law. New law seeks to clarify that such a disposition is not a prohibited substitution.

Existing law provides that if the successor is an unemancipated minor, concurrence may be made on his behalf by the administrator of his estate or his natural tutor, without the need for a formal tutorship proceeding. New law expands existing law to also apply to interdicts.

Effective August 1, 2016.

(Amends C.C. Art. 1522 and C.C.P. Art. 3396.9)

### **Principals and Interdicts (Act 110)**

Existing law provides that a mandatory may perform all acts which are incidental or necessary to fulfill the obligations as mandatory.

New law specifies that a mandatory may not prevent or limit reasonable communication, visitation, or interaction between a principal who is over the age of 18 years and another person without prior court approval and only upon a showing of good cause by the mandatory, unless express authority to do so has been given to the mandatory by the principal.

New law specifies that the individuals whom the mandatory may not limit or prevent reasonable communication, visitation, or interaction with the principal include 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.

Existing law allows a curator to care for the person or affairs of an interdict.

New law specifies that a curator shall allow communication, visitation, and interaction between an interdict who is over the age of eighteen years and a relative of the interdict by blood, adoption, or affinity within the third degree, or another individual who has a relationship with the interdict based on or productive of strong affection if it would serve the best interest of the interdict.

New law requires an undercurator to move the court to appoint a successor to a curator if the undercurator learns that the curator has denied an interdicted individual from communicating, visiting, or interacting with a person, unless the court has previously approved such denial.

New law adds that any interested party may petition for the removal of a curator or undercurator if the curator or undercurator is prohibiting visitation of an interdict.

New law provides that the isolation of an individual over the age of 18 years may qualify

as causing irreparable injury, loss, or damage to an individual, and thus allows for injunctive relief to be granted.

New law provides that a rule to show cause may be filed by any relatives by blood, adoption, or affinity within the third degree, or other individuals who have a relationship based on or productive of strong affection who are seeking visitation, communication, or interaction with an interdict. New law provides for an expedited hearing on a rule to show cause when the interdict is suffering from an illness or condition which he is not likely to survive beyond six months.

Effective upon signature of governor (May 19, 2016).

(Amends C.C. Art. 2995 and C.C.P. Art. 4568; adds C.C. Art. 2997(7), C.C.P. Arts. 3601(E), 4565(B)(7), 4566(J), and 4570, and R.S. 9:3851(E))

#### **Coastal Protection and Restoration Authority (Act 430)**

New law allows, rather than requires, the Coastal Protection and Restoration Authority (CPRA) to utilize the Dept. of Natural Resources, office of management and finance, for accounting and budgetary control, procurement and contractual management, data processing, management and program analysis, and personnel management and grants management.

New law makes technical changes throughout the statutes to correct references.

Effective August 1, 2016.

(Amends numerous statutes in many titles.)

#### **Representation of Absent Parents (Act 407)**

Present law provides for legal representation of indigent parents with respect to child abuse and neglect cases. New law extends the obligation to also represent absent parents in child abuse

and neglect cases, including curatorship appointments.

Present law requires the petitioner to pay the fees and costs of a curator ad hoc. New law repeals present law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends Ch.C. Arts. 571, 572(1), 573, and 575 and R.S. 15:185.1, 185.2, 185.3, 185.4, 185.6, 185.7, 185.8(intro. Para.), and 185.9; repeals Ch.C. Art. 1023(c))

#### **Vital Records and Filiation (Act 434)**

New law requires that notice and an opportunity to object be given to the state registrar of vital records prior to the signing of a judgment of filiation which amends a birth certificate.

Old law provided for the vital records forms to be completed upon the birth and death of a person. New law reorganizes old law and resolves the conflicts between the laws relative to birth certificates and the laws relative to filiation.

Old law provided for the issuance of a new birth certificate when a judgment of filiation is obtained. New law provides that if the filiation of a child changes after the issuance of an original birth certificate, the state registrar shall amend the birth certificate in accordance with new law.

New law provides for the amendment of an original birth certificate upon a judgment of maternal filiation when no mother had been identified originally, or when a different mother had been identified originally.

New law provides for the amendment of an original birth certificate upon a change in paternal filiation due to the disavowal of paternity, due to a contestation and establishment of paternity, due to marriage and formal acknowledgment of paternity, due to a formal acknowledgment of paternity, or due to a judgment of paternity.



Present law provides relative to birth certificates in circumstances in which the mother of the child and her husband have lived separate and apart for 180 days prior to the conception of the child and the biological father of the child is a man other than the husband of the mother. New law provides for the amendment of the birth certificate in such cases.

New law provides an exception to the laws governing the surname of the child when the mother shows good cause. New law provides that good cause may include the fact that the father is no longer involved in the child's life, does not pay support, or does not communicate with the child.

New law deletes outdated references and corrects cross references to adult adoptions.

Old law provided relative to a legitimization by authentic act. New law repeals old law.

(Amends Ch.C. Arts. 1122 and 1142 and R.S. 40:34, 46, 46.1, 46.2, and 75(A); adds R.S. 9:410, R.S. 40:34.1-34.13, and 46.3-46.13; repeals Ch.C. Art. 1142(C))

### **Medical Child Support (Act 253)**

Existing law permits a court to order either party to provide medical support for a child when the Dept. of Children and Family Services (DCFS) provides support enforcement services.

New law provides for obligations to provide health insurance at a reasonable cost and allows a court to order a noncustodial parent to provide cash medical support until health insurance is provided by the noncustodial parent.

New law requires DCFS to collect cash medical support payments and distribute them in accordance with the Code of Federal Regulations and the La. Administrative Code.

Effective August 1, 2016.

(Amends R.S. 9:315.4(B), R.S. 46:236.1.1(2) and 236.1.2(L))

### **Protective Orders and Electronic Transmissions (Act 409)**

Existing law provides for the use of electronic signatures. Prior law prohibited the application of laws governing the use of electronic signatures from applying to adoptions, divorces, or other matters of family law. New law retains prior law except it allows electronic signatures for petitions for temporary restraining orders issued pursuant to the Domestic Abuse Assistance Act or the Protection from Dating Violence Act.

Existing law defines the crime of violation of protective orders as the willful disobedience of a preliminary or permanent injunction or protective order issued pursuant to certain provisions of existing law if the defendant was given notice of the order by service of process.

New law adds that a defendant may be properly served if tendered a faxed or electronic copy of a temporary restraining order or ex parte protective order received directly from the issuing magistrate, commissioner, hearing officer, judge, or court.

Effective August 1, 2016.

(Amends R.S. 9:2603(B)(4)(a) and R.S. 14:79(A)(1)(b))

### **Juvenile Justice Schools (Act 500)**

Prior law provided Department of Public Safety and Corrections (DPSC) sole authority over the placement, care, treatment, or other considerations necessary for children judicially committed to DPSC. New law clarifies that the authority is with the office of juvenile justice (OJJ) within DPSC and makes an exception for educational services as provided in new law.

New law adds "office of juvenile justice schools" (OJJ schools) to the state and district accountability program and all programs providing educational services to students in secure care of DPSC.

New law requires the State Board of Elementary and Secondary Education (BESE) to convene a mutual accountability team to draft and propose to BESE a specialized accountability program for OJJ schools by March 1, 2017.

New law requires BESE to adopt rules establishing a specialized accountability program for OJJ schools no later than March 1, 2017.

New law requires the state Department of Education to assemble and calculate OJJ school report cards annually and publish report cards and performance scores on its website.

New law requires the OJJ to publish report cards and performance scores of OJJ schools on its website.

New law requires the mutual accountability team to recommend to BESE a policy governing educational assessment and counseling of students in OJJ schools no later than January 1, 2017.

New law requires, no later than July 1, 2017, the mutual accountability team recommend to BESE a policy mandating which records, information, or other documentation must be maintained.

New law provides that no later than December 1, 2016, the mutual accountability team shall recommend selection criteria for a comprehensive computerized student information system to be used by OJJ schools.

New law requires the state superintendent of education designate a program manager for juvenile justice education programs no later than January 1, 2017.

New law provides that the OJJ shall be considered a parish school board for purposes of development and submission of pupil progression plans.

New law provides that Minimum Foundation Program funds and other federal funds for youth in OJJ facilities be subject to the same oversight and accountability as other school boards.

New law provides that OJJ schools are subject to same data collection provisions as city and parish school boards.

Effective August 1, 2016.

(Amends Ch.C. Art. 908(A), R.S. 15:905, and R.S. 17:3911, and 3912(A); adds R.S. 17:10.9 and 100.1(D))

### **Juvenile Justice (Act 501)**

New law allows a court discretion as to whether to transfer certain children age 15 or older to an adult facility for detention prior to trial as an adult.

New law 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.

New law provides that after June 30, 2018, "child" means any person under the age of 21, including an emancipated minor, who commits a delinquent act on or after July 1, 2018, when the act is not a crime of violence and occurs before the person attains 18 years of age.

New law provides that after June 30, 2020, "child" means any person under the age of 21, including an emancipated minor, who commits a delinquent act on or after July 1, 2020, and before the person attains 18 years of age.

New law creates the Louisiana Juvenile Jurisdiction Planning and Implementation Committee as a committee of the Juvenile Justice Reform Act Implementation Commission and provides for the committee to have various authority, duties and responsibilities.

New law directs the La. State Law Institute to study and to recommend to the legislature by March 1, 2017, other amendments and additions to the law as may be appropriate to effectuate the purpose of including 17-year olds in the juvenile justice system.

New law requests the La. Judicial Council to study and recommend to the Supreme Court amendments to Louisiana's Rules of Court as appropriate to effectuate the purpose of including 17-year olds in the juvenile justice system.

New law directs the Dept. of Children and Family Services to study and to recommend new or amended rules as appropriate for the safe operation of the state's juvenile detention centers with the inclusion of 17-year olds in the juvenile justice system.

Effective upon signature of the governor (June 14, 2016).

(Amends Ch.C. Arts. 305(A)(2), 306(D), and 804(1); adds R.S. 15:1441-1442 and Ch.C. Art. 306(G))

#### **Representation of Children in State Custody (Act 617)**

New law provides that access to review the records of a child in the custody of the office of juvenile justice (OJJ) must be provided to the child's counsel or legal guardian upon the request of the OJJ.

New law provides that representation by a public defender shall create an assumption of indigence and copies of the records and reports relevant to post-dispositional defense and reentry advocacy are to be furnished at no cost to the child, the child's family, legal guardian, or counsel.

New law adds the district public defender, district public defender's representative, or the representative of a public defender program to the list of individuals to be authorized to receive records and reports in individual cases.

New law requires that if an order of commitment to the custody of the Department of Public Safety and Corrections (DPSC) is subsequently modified and the child is placed on parole, then the maximum term of this parole is the remainder of the sentence originally imposed, except in various specified circumstances.

New law 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.

New law requires an agency or institution to which a child is assigned to send a copy of its report to the court on the whereabouts and condition of the child to the child's counsel as well.

New law 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.

New law 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. New law creates an irrebuttable presumption of indigence if the child is represented by a public defender.

New law requires an in-person review hearing to occur not more than six months after commitment for a child committed to the custody of the OJJ, unless waived by counsel. New law provides that the in-person hearings shall be to ensure the child is receiving necessary treatment and services and consider any motions for modification. New law requires the child be physically transported to the committing court for the review hearing.

New law creates the Safe Return Representation Program to provide qualified legal representation to indigent children committed to the custody of the OJJ and promote safe return and reentry for youth in custody. New law grants the Louisiana Public Defender Board the power to administer the program and all regulatory authority, control, supervision, and power necessary to administer the program. New law establishes numerous requirements for the board in the administration of the Safe Return Program.

New law creates the Louisiana Safe Return Representation Program Fund within the state treasury to administer the Safe Return Representation Program to be funded by appropriations from the legislature or any other source.

New law requires the OJJ's rules and regulations to include provisions providing for:

(1) Reasonable access to each child by defense counsel, and for adequate and confidential meeting space in each juvenile facility for defense counsel and children they represent.

(2) Direct, confidential, and readily accessible telephone or audio-visual connections, to be provided at no cost to children in custody or to their families, between children and defense counsel designated by the Public Defender Board. Telephones or audio or visual connections to counsel must be available, by reasonable oral request, on a daily basis to all children.

New law allows electronic submission of certain reports whenever practicable.

Effective August 1, 2016.

(Amends Ch.C. Arts. 412(C), 905, 906, and R.S. 15:905(B); adds Ch.C. Arts. 412(D)(12), 898(D) and (E) and R.S. 15:186.1 - 186.6)

#### **Online Filing with Secretary of State (Act 554)**

New law authorizes the secretary of state to implement and establish procedures and systems for secure online form filing for the filing of any instrument required to be filed with the secretary of state pursuant to the provisions of Titles 9 and 51.

New law removes the requirement that electronic filings include either an electronic or digital signature and instead requires all online filings to include an electronic signature.

New law provides that the secretary of state may accept filings as required in existing law by means of online transmission.

Prior law provided certain requirements for persons making in-person filings with the secretary of state pursuant to Title 12. New law removes the provisions relative to in-person filings.

New law provides for filing by facsimile of documents required to be filed by Titles 45 and 51.

New law provides that printed documents transmitted through an electronic method to the secretary of state are deemed properly signed when the document received by a facsimile machine or document image attachment in email by the commercial division, office of the secretary of state, purports to be a copy of the original document and contains the signatures required in new law.

New law provides that any provision that requires an instrument filed with the secretary of state to be subscribed or acknowledged before a notary public may be dispensed with if the instrument is filed online and signed electronically.

New law provides that for any filing provided for in Titles 9, 12, 45, and 51, if the secretary of state has the capability to accept the filing online, it shall be filed online. However, new law provides that any filing filed by an individual from a parish with a population of 100,000 or less according to the latest federal decennial census may be filed by facsimile transmission or mail.

New law specifies, that until the secretary of state has the capability to accept filings online, any filing with the secretary of state pursuant to certain provisions of Titles 9 and 12 which has the effect of changing the name of a designated or registered agent, or changing the name of a principal officer of the corporation, shall be accompanied by a resolution signed by each member of the corporation's board of directors

in order for the change to be deemed validly filed.

Effective January 1, 2018.

(Amends R.S. 9:3402, R.S. 12:1-120 and 1701; adds R.S. 45:1364.1 and R.S. 51:195)

### **Infant Relinquishment (Act 80)**

Existing law provides a mechanism whereby any parent may relinquish the care of an infant who is not more than 60 days old to the state in safety and anonymity and without fear of prosecution. New law makes technical corrections.

Effective August 1, 2016.

(Amends R.S. 14:46.4(B)(5), R.S. 17:81(R)(1) and 3996(B)(22), and Ch.C. Art 1150(2))

### **Department of Children and Family Services (Act 90)**

Prior law divided the Dept. of Children and Family Services (DCFS) into the division of programs and the division of operations and provided for a deputy secretary for each division.

New law renames the division of programs to the division of child welfare, renames the division of operations to the division of family support, and provides for an assistant secretary for each division to be appointed by the governor.

New law authorizes the secretary of DCFS to appoint a single deputy secretary to perform duties and functions determined and assigned by the secretary, and requires the deputy secretary to serve as acting secretary in the absence of the secretary.

Effective July 1, 2016.

(Amends R.S. 15:555(A)(17), R.S. 36:3(4), 9(C)(2)(intro. para.), 472(A), and 475, and R.S. 46:236.1.1(13); Adds R.S. 36:476)

### **Juvenile Justice (Act 499)**

New law provides for electronic systems to compile statistical data to assist in the determination of levels of accountability, cost effectiveness, and reinvestment in the juvenile justice system.

New law requires the office of juvenile justice (OJJ) 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.

New law requires specific data to be collected from all facilities that detain juveniles and provides that the information be available for inspection by any court exercising juvenile jurisdiction and Department of Children and Family Services (DCFS).

New law provides for the development of requirements for program grant applications and a review of these applications.

Present law provides that contracts for nonstate providers for services to juvenile offenders assigned to the Department of Public Safety and Corrections (DPS&C) or their families shall not exceed five years without renewal or negotiation.

New law provides that contracts for nonstate providers for services to juvenile offenders assigned to OJJ or their families shall not exceed five years without renewal or negotiation.

New law provides that any contract entered into by OJJ to provide services to youth or their families shall be performance based and include financial disincentives or consequences based on the results achieved by the contractor.

New law requires OJJ to annually publish a report detailing all contracts entered into for services to youth or their families.

New law prohibits any child younger than age 13 from being detained in a juvenile detention facility when taken into custody for the alleged

commission of a misdemeanor-grade delinquent act.

New law provides that no judge shall order a youth who is 13 years of age or older and who is taken into custody for a felony-grade delinquent act, or for a misdemeanor-grade act based on an offense against the person of another, be placed in a shelter facility.

New law provides that if a child is adjudicated for a felony-grade offense that is not a crime of violence and is committed to custody of DPS&C, the total duration of the commitment imposed shall not exceed nine months if certain conditions are met.

New law provides that if a child is adjudicated for a felony-grade offense that is not a crime of violence and is placed on probation, the total duration of the probation shall not exceed 18 months unless the child is brought before the court for a hearing and the court finds that continued probation is necessary.

New law provides that if a court continues a child's probation beyond 18 months, it must hold a hearing every six months to determine if probation should be terminated or extended.

Prior law provided that no judgment of disposition shall remain in force for a period exceeding the maximum term of imprisonment for the offense which forms the basis for the adjudication, except that if the child is placed on probation, the term of probation may extend for two years or longer if the child is in a full-time juvenile drug court program as a condition of probation. New law decreases the maximum term of probation from two years to one year.

Prior law, in delinquency proceedings, authorized a court, when a child is adjudged guilty of direct contempt of court or constructive contempt of court for repeated disobedience of the court's judgment of disposition, to commit the child to a juvenile detention center for not more than 15 days, including time spent in detention for the contempt prior to the contempt hearing. New law reduces the maximum time for first and second offenses.

Prior law provided that in families in need of services proceedings, when the child is adjudged guilty of contempt, the court may commit the child to a secure detention facility for not more than 15 days under certain conditions. New law reduces the amount of time the child may be held from 15 to seven days.

Effective August 1, 2016.

(Amends R.S. 15:1087, Ch.C. Arts. 815, 898, 900(A), and 1509.1(A) and (C); adds R.S. 15:931-934 and 941-945)

### **Abolition of Entities (Act 614)**

New law provides for the abolition of the following boards, commissions, authorities, and like entities: Task Force on Juvenile Detention Standards and Licensing, State Advisory Commission on Teacher Education and Certification, the La. Historic Cemetery Trust Advisory Bd., Concordia Parish Port Commission, Advisory Committee on Hospice Care, the Interstate 10-12 Corridor District and Commission, La. Bicentennial Commission, Battle of New Orleans Bicentennial Commission, and Northeast La. Film Commission.

New law changes the composition of the River Parishes Transit Authority.

Effective August 1, 2016.

(Amends R.S. 15:1110, R.S. 40:2190(B), and R.S. 48:1604; repeals R.S. 17:31-33, R.S. 25:933(2) and 941, 1231-1237 and 1238.1-1238.7, R.S. 33:9039.51-56, R.S. 34:1851-1857, R.S. 36:209(Q), (T), and (U), 259(X), and 651(X), R.S. 40:2191, R.S. 47:120.38, and R.S. 48:1811.2-1811.6)

### **Board of Regents (Act 314)**

New law provides for the abolition of the Executive Bd. of the La. Universities Marine Consortium for Research and Education, the MediFund Board, and the La. Student Financial Assistance Commission, and the transfer of their powers and duties to the Bd. of Regents.

Effective August 1, 2016.

(Amends R.S. 17:3021, 3023, 3023.1, 3023.3, 3023.4(A), 3023.6, 3023.7, 3023.8, 3024, 3024.1, 3024.2, 3031, 3093(A) and (B), 3452, 3453.1(A) and (C), 3454, 3455, and 3456, R.S. 36:651(BB), and R.S. 51:2211(A), 2212(2), 2213(D) and (F), and 2215(A); repeals R.S. 17:3022, 3023.9, 3025, 3035, and 3453, R.S. 36:651(M) and (CC), 801.4, and 802.23, and 51:2214(A) through (F))

#### **24th JDC Probation Pilot Program (Act 676)**

New law authorizes the 24th JDC, by rule adopted by a majority of the judges sitting en banc, to establish the Swift and Certain Probation Pilot Program and to provide funding for same.

New law provides that the terms of the probation pilot program shall be decided by the presiding judge or judges, and provides that sanctions imposed pursuant to this program shall be served without diminution of sentence or credit for time served.

New law provides that when a case is assigned to the probation pilot program, with the consent of the district attorney, the court may place the defendant on probation for a period of not less than one year and not more than eight years if the court determines that successful completion of the program may require that period of probation to exceed the five-year limit provided in prior law. If necessary to insure successful completion of the program, the court may extend the duration of the probation period.

Effective upon signature of governor (June 17, 2016).

(Amends C.Cr.P. Art. 893 and R.S. 13:5371-5373)

#### **UNCODIFIED**

#### **Appropriations and Transfer (1st E.S. Act 27)**

New law decreases appropriations for Fiscal Year 2015-2016 in various respects.

New law permits the use of \$80,000,000 from bond refunding to eliminate deficits in FY 2015-2016 and FY 2016-2017.

New law transfers \$200,000,000 out of the Fiscal Year 2105-2016 Deficit Elimination Fund into the State General Fund (Direct).

New law includes language providing that if sufficient revenues are not generated in the 2016 1st E.S. in order to eliminate the total current year deficit, the commissioner of administration shall make such adjustments and reductions as are necessary to ensure that the appropriations for the current fiscal year eliminate the deficit.

New law was subjected to several line item vetoes regarding particular reductions before being signed by the governor.

Effective upon signature of the governor (March 15, 2016).

#### **Supplemental Appropriations (2nd E.S. Act 14)**

New law appropriates supplemental funding, and provides for means of financing substitutions and other budgetary adjustments for the operation of various departments for Fiscal Year 2016- 2017.

The governor line-item vetoed two appropriations before signing.

Effective July 1, 2016.

#### **Capital Improvements and Bonds (2nd E.S. Act 15)**

New law provides for the implementation of a five-year capital improvement program; provides for the repeal of certain prior bond authorizations; provides for new bond authorizations; provides for authorization and sale of such bonds by the State Bond Commission; and provides for related matters.

New law repeals the Act that originated as HB No. 3 of the 2016 R.S. of the Legislature.

Effective upon signature of governor (July 9, 2016).

#### **Capital Outlay Program (2nd E.S. Act 16)**

New law provides for the capital outlay budget and program for FY 2016-2017 and provides for the funding of the capital outlays from specified sources of monies in the specified amounts.

New law authorizes the funding of certain capital outlay projects from the sale of general obligation bonds for specified projects.

The governor line-item vetoed 25 appropriations before signing.

Effective upon signature of governor (July 11, 2016).

#### **Capital Outlay Requests (2nd E.S. Act 17)**

New law, notwithstanding any provision of existing law or the 2016-2017 Capital Outlay Act to the contrary, imposes additional requirements for the submission of capital outlay project requests.

New law provides that non-state capital outlay project applications shall not be deemed complete unless the project has either a fully executed cooperative endeavor agreement or proof of the applicable local match funding, if required.

New law, notwithstanding any contrary provision of the Capital Outlay Act of the 2016 2nd E.S., provides that Priority 1 general obligation bond funding shall include highway projects previously authorized and granted non-cash lines of credit pursuant to Priority 5 appropriations made to the Dept. of Transportation and Development Projects in Act No. 26 of the 2015 R.S.

Effective upon signature of governor (July 11, 2016).

#### **Transfers or Leases of State Properties (Acts 31, 46, 103, 152, 191, 266, and 484)**

New laws authorize the transfer or lease of various parcels of state property to various persons.

#### **Naming of Public Works (Acts 1, 20, 22, 23, 126, 136, 139, 144, 146, 165, 188, 540, and 492)**

These acts name various highways, interchanges, bridges, jails, and other buildings.

Effective August 1, 2016.

#### **Ancillary Expenses of State Government (Act 47)**

New law provides for the establishment and reestablishment of agency ancillary funds, to be specifically known as internal service funds, auxiliary accounts, or enterprise funds for certain state institutions, officials, and agencies. New law requires the appropriated funds, to the extent deposited, unless otherwise specified, to be used for working capital in the conduct of business enterprises rendering public, auxiliary, and interagency services. New law requires all funds to be expended in accordance with public bid laws.

New law requires, except as otherwise provided, any fund equity resulting from prior year operations be included as a resource of the fund from which it is derived.

New law provides that all money from federal, interagency, statutory dedications, or self-generated revenues of an agency be deemed available for expenditures in the amounts appropriated, and any increase in such revenues over the amounts appropriated shall only be available for expenditure by the agency with approval of the division of administration and the Joint Legislative Committee on the Budget (JLCB).

New law provides that the number of employees approved for each agency may be increased by the commissioner of administration when



appropriate documentation is deemed valid; however, any request which exceeds five positions requires approval of the division of administration and the JLCB.

New law requires any agency with an appropriation level of \$30 million or more to include positions within its table of organization which perform internal auditing services.

New law directs the commissioner of administration to adjust performance objectives and indicators contained in the Executive Budget Supporting Document to reflect the funds appropriated and to report such adjustments to the JLCB by Aug. 12, 2016.

New law provides that the treasurer shall invest excess cash funds, excluding those arising from working capital advances, with the interest earned being credited to the account.

New law 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.

New law does not apply to the Dept. of Culture, Recreation and Tourism, or any agency contained in Schedule 04, Elected Officials, of the General Appropriation Act.

Effective July 1, 2016.

#### **Appropriations (Act 17)**

New law appropriates \$26.3 billion for Fiscal Year (FY) 2016-2017, of which \$8.8 billion is state general fund (direct). Other means of financing for FY 2016-2017 include: interagency transfers at \$951 million; fees and self-generated revenues at \$2.3 billion; statutory dedications at \$2.6 billion; and federal funding at \$11.6 billion.

Effective July 1, 2016.

#### **Supplemental Appropriations (Act 57)**

New law appropriates supplemental funding, and provides for means of financing substitutions and other budgetary adjustments for the operation of various departments for Fiscal Year 2015- 2016.

New law reappropriates sales tax dedications from prior years and extends the time to pay for obligations out of sales tax dedications and aid to local governmental entities in the current fiscal year.

Effective upon signature of governor (June 16, 2016).

#### **Appropriations for Judicial Branch (Act 67)**

New law appropriates funds for FY 2016-2017 for the ordinary operating expenses of the judicial branch of government, including:

- (1) Louisiana Supreme Court \$ 86,189,975
- (2) Courts of Appeal 46,589,096, and
- (3) District Courts 38,772,692.

New law provides that the appropriations out of the State General Fund (Direct) contained in this Act shall be reduced 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.

Effective July 1, 2016.

#### **Appropriations for Legislative Branch (Act 77)**

New law provides for the expenses of the legislature and legislative service agencies, including:

House of Representatives \$26,098,470,

Senate \$19,588,048,

Legislative Auditor \$9,013,341, and

Legislative Budgetary Control Council  
\$7,701,412.

New law provides for the allocation of funds for salaries and allowances of members, officers, and staff of the House and Senate.

Effective July 1, 2016.

#### **Dental Board Location (Act 491)**

New law, relative to the La. State Board of Dentistry, changes effective date from Jan. 1, 2017 to Jan. 1, 2018, for following statutory changes adopted by Act 866 of 2014 R.S. to become effective: (1) change the domicile of the board from city of New Orleans to parish of East Baton Rouge; and (2) change judicial review of board adjudication from civil district court for parish of Orleans to 19th JDC in parish of East Baton Rouge.

(Amends Act 866, Sec. 2 of 2014 RS)

#### **Saline Lake Game & Fish Preserve Commission (Act 487)**

New law changes the composition of the Saline Lake Game and Fish Preserve Commission.

Effective August 1, 2016.

(Amends Section 4(A) of Act 105 of 1976 R.S., as amended by Act 222 of 1977 R.S.; amends Section 4 of Act 191 of 1926 R.S., as amended by Act 294 of 1938 R.S., Act 120 of 1946 R.S., Act 307 of 1948 R.S., Act 17 of 1956 1st ES, Act 455 of 1966 R.S., Act 105 of 1976 R.S., and Act 303 of 1977 R.S.)

#### **Toll Bonds (Act 481)**

New law authorizes the issuance of no more than \$133,000,000 of toll bonds for constructing improvements and betterments to the expressway, and authorizes the refunding of existing indebtedness.

Effective upon signature of the governor (June 13, 2016).

(Adds Sec. 1(8), 4.1, and 12.2 of Act 762 of 1986 R.S., as amended by Act 875 of 1988 R.S., Act 1227 of 1995 R.S., Act 855 of 1997 R.S., and Act 1469 of 1997 R.S.)

#### **Revenue Sharing Fund (Act 603)**

New law provides for the allocation and distribution of the Revenue Sharing Fund for FY 2016-2017. The Act contains no changes in distributions from FY 2015-2016.

Effective August 1, 2016.

#### **Judicial Expenditures (1st E.S. Act 19)**

New law directs the Chief Justice of the Supreme Court to reduce the State General Fund (Direct) appropriations for the Louisiana Judiciary for FY 2015-2016 in the amount of \$3,991,120.

#### **Various Appropriations (1st E.S. Act 20)**

New law directs the Legislative Budgetary Control Council to reduce the State General Fund (Direct) appropriation for the Louisiana Legislature for FY 2015-2016 in the amount \$1,589,207.

New law directs the Legislative Budgetary Control Council to reduce the Fees and Self-Generated Revenue appropriations for the Louisiana Legislature for Fiscal Year 2015-2016 in the amount of \$444,036.

### **TITLE 1: GENERAL PROVISIONS**

#### **Holidays (Acts 33 and 34)**

New laws establish various days as legal holidays in various places for various purposes.

Effective August 1, 2016.

(Adds R.S. 1:55(E)(1)(h))

## **TITLE 3: AGRICULTURE AND FORESTRY**

### **Dairy Industry Promotion Board (Act 10)**

Old law required the Dairy Industry Promotion board to establish and impose assessments on the sale of milk solids, milk fats, and fluid milk components, subject to limitations contained in a referendum. New law repeals old law.

Old law prohibited the board from authorizing the levy or collection of assessment until approved by a majority of dairy producers voting in a referendum before any assessment can be levied or collected. New law repeals old law.

Old law provided a penalty for each dairy cooperative association, processor, or distributor who fails to file any report required by the board or to pay the assessment authorized in a referendum by the board. New law repeals old law.

Old law authorized the board, in cooperation with the commissioner, to conduct referenda among dairy producers. New law repeals old law.

(Amends R.S. 3:4156(2), 4159(A), and 4160(A); repeals R.S. 3:4156(3) and 4158)

### **Soil and Water Conservation Commission (Act 42)**

New law provides relative to the membership of the state soil and water conservation commission.

New law removes the requirement that the audit be performed by audit of all districts within the commission and evaluation section of the Dept. of Agriculture and Forestry.

(Amends R.S. 3:1204(A)(1) and (C)(3))

### **Agricultural Commodities (Act 12)**

New law establishes guidelines for the Louisiana Agricultural Commodities Commission to

follow when paying claims under the agricultural commodities dealer and warehouse law.

(Amends R.S. 3:3412 and 3412.1; adds R.S. 3:3409(H)(4))

### **Inspection of Animal Slaughter (Act 5)**

New law removes the exemption from inspection applicable to the slaughter of animals.

(Amends R.S. 3:4215(B)(intro. para.))

### **Aquatic Chelonian Research and Promotion Board (Act 9)**

New law changes the composition of the Louisiana Aquatic Chelonian Research and Promotion Board.

Old law provided for referendums to be called by the commissioner to vote on any assessments that the board may want to levy. New law repeals present law referendums requirements.

(Amends R.S. 3:559.23; repeals R.S. 3:559.26)

### **Petroleum Product Records (Act 53)**

Present law requires each dealer, distributor, or importer of petroleum products to keep a full and complete record of petroleum products received, used, sold, or delivered within this state.

New law provides a penalty of up to \$5,000 for any dealer, distributor, or importer that willfully and knowingly fails to provide required records.

(Amends R.S. 3:4679)

### **Billboards on State Land (Act 70)**

New law authorizes the Dept. of Agriculture to place advertising signs on certain property owned by the department.

(Adds R.S. 3:6)

### **Crawfish Promotion and Research Board (Act 219)**

New law changes the composition of the Crawfish Promotion and Research Board.

Effective August 1, 2016.

(Amends R.S. 3:556.3)

### **Food Origin Fraud (Act 220)**

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

(Amends R.S. 3:4617(C))

### **Meat Inspection (Act 256)**

New law makes technical corrections to meat inspection laws.

Effective August 1, 2016.

(Amends R.S. 3:4222; repeals R.S. 3:4222(D))

### **Seeds (Act 392)**

New law grants the commissioner of agriculture and forestry exclusive jurisdiction and authority over all matters related to the regulation of seeds.

New law 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 or subdivision restrictions or regulations regarding seeds that in any way affect the registration, distribution, sale, or planting of seeds.

New law provides for procedure for municipalities, parishes, local governmental entities, or governing authorities of any public or private group or association to request that department rules or regulations applicable to the registration, distribution, sale, or planting of

seeds be amended to provide for specific problems encountered in or by the entity, group, or association.

New law requires municipalities, parishes, and local governmental entities to petition the commissioner for approval of any ordinance applicable to the registration, distribution, sale, or planting of seeds. New law requires the governing authority of a public or private group or association to petition the commissioner for approval of subdivision restrictions or regulations. New law provides the procedure for obtaining such approval.

New law requires municipalities, parishes, local governmental entities, and governing authorities of a public or private group or association, having in effect, on July 1, 2016, an ordinance or subdivision restriction or regulation affecting the registration, distribution, sale, or planting of seeds to submit the ordinance or subdivision restriction or regulation to the commissioner on or before December 1, 2016, for approval. Any such ordinance or subdivision restriction or regulation received by the commissioner on or before December 1, 2016, shall continue in full force and effect, unless the commissioner disapproves the ordinance or subdivision restriction or regulation. Any such ordinance or subdivision restriction or regulation not received by the commissioner on or before December 1, 2016, is void.

Effective upon signature of the governor (June 5, 2016).

(Adds R.S. 3:1434(6) and 1450)

### **Animal Shelter Registry (Act 381)**

New law requires the La. Animal Welfare Commission (commission) to establish and maintain the La. Animal Shelter Registry.

New law authorizes each parish governing authority to submit to the commission a list of all public (governmental) animal shelters located within the parish's jurisdiction.

New law authorizes each public animal shelter to submit specified information.

Effective August 1, 2016.

(Adds R.S. 3:2364(D)(11) and 2366)

### **Department of Agriculture and Forestry (Act 329)**

Prior law authorized the Dept. of Agriculture and Forestry to develop and adopt an official logo for products produced in Louisiana. New law expands prior law to include products grown or manufactured in Louisiana and agricultural related activities conducted in Louisiana.

New law authorizes the commissioner of agriculture and forestry to impose a civil penalty of up to \$500 for violations. Each day on which a violation occurs shall constitute a separate offense.

New law provides that civil penalties may be assessed only by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

New law authorizes the commissioner to institute civil proceedings to enforce his rulings in the district court for the parish where the violation occurred.

Effective June 2, 2016.

(Amends R.S. 3:4721; adds R.S. 3:4722)

### **Pest Control (Act 330)**

New law repeals prior laws that provided for Louisiana's participation in the interstate Pest Control Compact and for the administration of the Pest Control Insurance Fund, designated the commissioner of agriculture and forestry or his designee as the compact administrator for Louisiana, and required copies of bylaws and amendments to be filed with the La. Dept. of Agriculture and Forestry.

Effective June 2, 2016.

(Repeals R.S. 3:3396.1-3396.6)

### **Unmanned Aerial Systems (Act 545)**

Existing law requires each applicant applying for a license to operate an unmanned aerial system in the course of an agricultural commercial operation to complete an agricultural education and safety training course administered by the La. cooperative extension service.

New law adds the Southern University Agricultural Research and Extension Center as an entity that may administer the agricultural education and safety training course.

New law authorizes the commissioner to establish, by rule, a registration fee for each unmanned aerial system not to exceed \$100, and an agricultural education and safety training course fee not to exceed \$50.

Effective August 1, 2016.

(Amends R.S. 3:43(A)(2); adds R.S. 3:48)

### **Retail Pet Stores (Act 618)**

New law prohibits a retail pet store from offering for sale dogs and cats that have not been obtained from one of the following sources:

- (1) A breeder that is in compliance with law.
- (2) A breeder that has not received from the USDA, pursuant to the Animal Welfare Act, 7 U.S.C. 2131 et seq., or regulations adopted thereunder, any of certain citations.
- (3) An animal care facility.
- (4) An animal rescue organization.

New law prohibits a retail pet store from offering for sale a dog or cat that is younger than eight weeks old.

New law requires each retail pet store offering dogs or cats for sale to post, in a conspicuous location on the cage or enclosure for each dog or

cat, a sign containing the name of the breeder, the breeder's USDA license number, and, if the breeder is required to be licensed in the state in which the breeder is located, the breeder's state license number.

New law requires retail pet stores offering dogs or cats for sale to maintain records of the source of each dog or cat, including a description of the dog or cat, the name, business address, email address, and USDA license number of the breeder for at least two years following the date of acquisition. Such records shall be made available, immediately upon request, to any law enforcement officer or animal control officer.

Effective upon signature of the governor (June 17, 2016).

(Adds R.S. 3:2511)

## **TITLE 6: BANKS AND BANKING**

### **Sales of Checks and Money Transfers (Act 75)**

Prior law exempted certain persons named as a person in control in an approved Check or Money Transmitter application from having to give notice and receive approval of such transaction from the commissioner of financial institutions.

New law repeals the exemption, meaning that all transactions provided for in the Sale of Checks and Money Transfer Act and conducted by a person named as a person in control requires that the person shall first give notice to the commissioner of the proposed transaction and receive the approval of the commissioner in each instance.

Effective August 1, 2016.

(Repeals R.S. 6:1054(G)(4))

### **State Bank Property Valuation (Act 74)**

Prior law required that a state bank carry an immovable on its books at fair market value or acquisition cost, whichever is lower. New law

provides instead that an immovable be carried on the bank's books in accordance with generally accepted accounting principles (GAAP).

Prior law required 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. New law retains the requirement for annual appraisal but provides that the bank account for the property in accordance with generally accepted accounting principles (GAAP).

Prior 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, and if it 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. New law requires that the bank reflect the correct valuation in accordance with generally accepted accounting principles (GAAP).

Effective August 1, 2016.

(Amends R.S. 6:243(B)(1) and (2)(a) and (b))

### **Credit Union Share Accounts (Act 64)**

Present law provides that the member of a federal or state credit union may deposit funds into a share account with the intention to make the deposited funds payable to certain beneficiaries upon the death of the member, and requires the beneficiaries to be specifically named in the share account records of the federal or state credit union. New law retains present law.

Old law required the member to provide the names of the beneficiaries to the respective credit union by affidavit in authentic form. New law deletes old law.

Old law required the title of the share account to include the terms "in trust for", "as trustee for", or "payable on death to", such beneficiary or beneficiaries. New law deletes old law.

(Amends R.S. 6:653.1)

#### **Payable on Death Accounts (Act 166)**

Present law, applicable to banks and mutual associations, requires that upon the death of a depositor who has deposited a sum in any account evidencing an intention that upon the death of the depositor, the funds shall belong to one or more named beneficiaries of the depositor, the bank or the mutual association ("association") may pay the deposit, together with the dividends or interest accruing thereto, to the named beneficiaries for whom the deposit was made.

Prior law provided that the depositor must give to the bank or the association an affidavit in authentic form stating the names of one or more beneficiaries and that the bank or the association may conclusively rely on this affidavit for the disbursal of funds.

New law provides that as an alternative to an affidavit in authentic form, the depositor may submit to the bank or association an act under private signature executed in the presence of an officer or a branch manager of the bank or association and two additional persons. New law provides that the bank or association may conclusively rely on this act for the disbursal of funds.

Effective August 1, 2016.

(Amends R.S. 6:314(A) and 766.1(A))

#### **Notices of Repossession (Act 171)**

Prior law, relative to the Additional Default Remedies Act, provided that within three business days of taking possession of collateral, the secured party must deliver in person or send by mail a payment of \$75 to the recorder of mortgages and \$250 to the appropriate official for each "Notice of Repossession" filed.

New law provides that the recorder of mortgages cannot assess any additional fees for the filing of the "Notice of Repossession".

Effective August 1, 2016.

(Amends R.S. 6:966.1(B))

#### **Additional Default Remedies Act (Act 205)**

New law adds "motorcycles" to the definition of "collateral".

New law provides that if a secured party files a "Notice of Repossession" with the sheriff for the parish of the debtor's last known address, then the sheriff is deemed to be the appropriate official and the secured party has satisfied the requirements of prior law.

Effective August 1, 2016.

(Amends R.S. 6:965 and 966.1)

#### **Credit Union Savings Promotion Raffles (Act 257)**

New law authorizes a credit union to offer savings promotion raffles to encourage the opening of savings accounts and related thrift instruments.

New law defines "savings promotion raffle" as a contest in which the sole consideration required for a chance of winning designated prizes is obtained by the deposit of a specified amount of money in a share account, where each ticket or entry has an equal chance of being drawn.

(Adds R.S. 6:644(B)(17))

### **TITLE 8: CEMETERIES**

#### **Abandoned Cemeteries and Prison Labor (Act 413)**

New law authorizes and regulates certain persons licensed to operate abandoned cemeteries.

New law requires that an abandoned cemetery sales and management license be issued only to a nonprofit juridical person, and the officers and directors of the entity shall serve voluntarily and without compensation for their services. New law requires that any excess funds realized by a licensee shall be deposited into an account, and the funds of the account may be used only for the maintenance and upkeep of the cemetery and the cemetery records.

New law allows nonprofit juridical persons whose officers, directors, or members have ancestors within an abandoned cemetery to apply for an abandoned cemetery sales and management license if they meet the qualifications required by existing law relative to licensure as a cemetery sales organization or a cemetery management organization.

New law allows the Louisiana Cemetery Bd. (board) to charge an application fee in the amount of \$250, and new law allows the board to charge an annual license renewal fee in the amount of \$250.

New law requires that, prior to the issuance of any license issued pursuant to new law, the board shall consult with the division of archaeology of the office of cultural development within the Dept. of Culture, Recreation and Tourism (division) regarding the reasonableness of the operation of any abandoned cemetery. New law authorizes the division to impose reasonable conditions and limitations on any license issued by the board relative to a particular abandoned cemetery.

New law provides that the division shall have a cause of action for specific performance against any licensee who violates the provisions of new law.

New law states that a licensee shall have exclusive authority to operate the cemetery, regardless of any other person who subsequently applies for a license to operate the same abandoned cemetery, for as long as its abandoned cemetery sales and management license is valid.

New law authorizes licensees to (1) sell grave spaces, openings, and closings in the cemetery, and (2) make and enforce written rules and regulations for the operation and maintenance of the cemetery.

New law prohibits licensees from selling merchandise in any manner that would either require monies to be deposited into a trust fund as required by the provisions of existing law relative to merchandise trust funds or otherwise necessitate adherence to any provision of existing law relative to merchandise trust funds. New law requires that any merchandise or service sold by a licensee shall be delivered or performed within 120 days of entering into the applicable contract with the consumer.

New law prohibits the licensee from destroying or removing any original grave markers from the premises of the cemetery without the permission that is required to be obtained pursuant to existing law.

New law empowers the board to refuse, suspend, and revoke licenses for various reasons, and to impose upon a licensee certain retroactive record-keeping or record creation requirements.

New law allows the state or any local political subdivision to use prison labor, subject to the provisions of existing law and subject to a consultation with the division, to clean and maintain abandoned cemeteries. New law requires the state or any local political subdivision to obtain the consent of a licensee prior to using prison labor to perform any work on a cemetery that is subject to an abandoned cemetery sales and management license.

New law provides that, in the event a licensee consents to the use of prison labor on the abandoned cemetery subject to his license, the licensee shall reimburse the appropriate prison any cost incurred by use of the prison labor. New law specifies that the cost of any use of prison labor on an abandoned cemetery shall be reimbursed to the appropriate prison by the requesting governmental entity except as provided for in new law.



New law requires a licensee to adhere to all provisions of existing law relative to cemeteries that would otherwise be applicable to an actual owner of the cemetery. New law clarifies that any liability that results from the unlawful act or inadequate management of a prior owner or operator of a cemetery shall be strictly limited to the prior owner or operator. New law states that no cause or right of action shall be enforceable against a licensee for any unlawful action or inadequate management of a prior owner or operator of the cemetery. New law is not intended to relieve a licensee from his own independent liability.

New law specifies that, in the event of an inadvertent discovery of an unknown or unmarked grave by a licensee, the licensee shall document the existence of the grave and close the grave. However, he shall neither disturb any human remains therein nor reuse the grave without the authority of those individuals identified in existing law.

New law indicates that no provision of new law shall supercede any other provisions of existing law relative to cemeteries to the contrary.

Effective January 1, 2017.

(Adds R.S. 8:411- 418)

## **TITLE 9: CIVIL CODE ANCILLARIES**

### **Consumer Loans (Act 48)**

New law adds to the enumerated list of persons exempt from consumer loan licensing requirements savings banks that are organized, certified, and supervised, or chartered, by an agency of either the USA, or the state of La., any other state or territory of the USA, or the District of Columbia.

New law adds to the exempt list any subsidiaries of any federally chartered entity described in existing law in which 80% or more of the ownership rests with such parent entity.

Effective August 1, 2016.

(Amends R.S. 9:3560(A))

### **Release of Judgments (Act 88)**

Present law provides a procedure for partially releasing judgments against discharged Chapter 7 bankruptcy debtors. New law extends the procedure for partially releasing judgments to include Chapter 13 bankruptcy debtors.

(Amends R.S. 9:5175(C)(1) and (2)(a))

### **Sale of Mineral Rights by Mail Solicitation Act (Act 179)**

New law requires a disclosure on an instrument evidencing a sale of mineral rights by mail solicitation.

New law does not apply to a sale of mineral rights by mail solicitation contracted subsequent to a prior personal contact that included a meaningful exchange between the transferor and the transferee.

New law provides that when an instrument evidencing the sale of mineral rights by mail solicitation contains the required disclosure, the transferor may rescind the agreement within 60 days after the date on which the transferor signs it. If the instrument does not contain the required disclosure, the transferor may rescind the agreement within three years after the date on which the transferor signs it.

New law provides that when the instrument evidencing the sale of mineral rights by mail solicitation contains the required disclosure, a third person acquiring an interest in mineral rights from the transferee is subject to the effect of a notice of rescission filed within 90 days after the date of the filing of the instrument.

New law provides that rescission will not be effective against a party to make royalty payments until 60 days after that party is furnished with a certified copy of the notice of rescission.

New law requires a transferor who exercises the right to rescind to return any payments made by the transferee within 60 days.

New law requires that when the right to rescind is exercised, the transferee must return any royalties or other payments, including interest, received by the transferee to the transferor within 60 days.

New law provides that when the instrument does not contain the disclosure requirement, the transferee will be liable for attorney and court costs and allows the court to award further damages of an amount up to twice the sum of royalties and other payments received by the transferee.

Effective upon signature of the governor.

(Adds R.S. 9:2991.1 - 2991.11)

### **Small Loans (Act 200)**

Present law, relative to deferred presentment transactions or small loans, requires disclosure of the borrower's right to an extended payment plan in the event he cannot meet the original payment plan. Present law requires that the first page of the agreement contain a statement regarding such right.

New law requires that the borrower seeking an extended payment plan make a written request, which may be submitted in person, by email or by facsimile, and requires the licensee/lender to place its name, email, address, phone number and facsimile number in the statement.

Effective August 1, 2016.

(Amends R.S. 9:3578.4.1(G)(2)(a))

### **Self-Storage Facility Leases (Act 167)**

Relative to lease agreements for self-service storage facilities, new law includes in the definition of "last known address" the lessee's electronic mail address.

Prior law provided for the option of a self-service storage facility owner to judicially enforce all of his rights under the rental agreement provided certain conditions are met.

Prior law required that notice of the owner's right to enforce his privilege be sent by certified mail to the lessee and required that the notice contain certain information, including but not limited to a copy of the rental agreement and a description of the property.

New law allows the owner to send the notice to the last known address of the lessee by verified mail, and electronic mail if the email address is provided by the lessee in the rental agreement, and to omit a copy of the written rental agreement, or a summary of a verbal rental agreement, and a description of the movable property.

Prior law required that the notice contain a brief and general description reasonably adequate to permit the lessee to identify the movable property. New law retains this provision but provides that any container, including a trunk, valise, or box that is locked, fastened, sealed, or tied in a manner deterring immediate access to its contents may be described without describing the contents.

Prior law required that after actual receipt of the notice or within 10 days of its mailing, whichever is earlier, the owner is to advertise the sale or other disposition of the movable property on at least one occasion in a newspaper of general circulation where the self-service storage facility is located.

New law retains prior law but provides that at least ten days after mailing or at least ten days after the date by which payment is demanded, whichever is later, then the owner of a self-service storage facility may also publish advertisement of the sale on a publicly accessible website that conducts personal property auctions.

Prior law required that the sale or other disposition of the movable property be held at the self-service storage facility, or at the nearest

suitable place to where the movable property is held or stored, as indicated in the notice. New law retains these provisions but authorizes the sale on a publicly accessible website that conducts personal property auctions.

New law provides that if the lien is claimed on a motor vehicle, watercraft, or trailer for rent and other charges and remains unpaid for 60 days, then the owner may have the property towed in lieu of foreclosing on the lien. New law provides that the owner is not liable for the motor vehicle, watercraft, or trailer or for any damages to the motor vehicle, watercraft, or trailer once the tower takes possession of the property provided the tower is licensed under the Louisiana Towing and Storage Act.

New law authorizes a reasonable late fee to be collected by an owner for each period that a lessee does not pay rent when due under the rental agreement, provided the amount of the late fee and the conditions for imposing the fee are stated in the rental agreement or in an addendum to that agreement. New law defines a "reasonable late fee" as a fee of \$20 or 20% of the monthly rent, whichever is greater. In addition to the late fee, new law authorizes imposition and collection of reasonable expenses incurred as a result of rent collection or lien enforcement by the owner.

New law provides that if the rental agreement contains a limit on the value of property stored in the lessee's storage space, this limit is be deemed to be the maximum value of the property stored in the space and the lessor is not liable for any claims in excess of this stated value.

Effective upon signature of the governor (May 19, 2016).

(Amends R.S. 9:4757 and 4759)

#### **Child Support Calculation (Act 218)**

Existing law provides for the calculation of child support based on income earning potential when a parent is voluntarily unemployed or underemployed.

New law creates a rebuttable presumption that when there is no evidence of a party's actual income or earning potential, that party can earn a weekly gross amount equal to 32 hours at minimum wage.

Effective August 1, 2016.

(Amends R.S. 9:315.11(A))

#### **Child Support Calculation (Act 222)**

New law gives the court discretion to consider, when calculating adjusted gross income, an amount paid toward the support of a minor child who is not the subject of an action before the court.

Effective August 1, 2016.

(Amends R.S. 9:315(C)(1))

#### **Child Support Calculation (Act 432)**

New law expands existing law to provide for the calculation of child support in the absence of a joint custody order for shared custody, if the court finds by a preponderance of the evidence that shared custody exists.

New law expands existing law to provide that even in the absence of a custody order or plan providing for split custody, split custody may exist if the court finds that it does by a preponderance of the evidence.

Effective August 1, 2016.

(Amends R.S. 9:315.9 and 315.10)

#### **Child Support Calculation (Act 602)**

Present law provides a child support guideline schedule which is based on economic estimates of child-rearing expenditures as a portion of household consumption. New law amends present law to incorporate the most recent economic estimates.

Present law provides monthly basic child support obligations for combined adjusted

monthly gross incomes beginning with \$0 per month. New law amends the monthly basic child support obligations and utilizes \$0 - \$950 as the minimum adjusted monthly gross income.

Present law provides a ceiling of \$30,000 for combined adjusted monthly gross income when calculating the basic child support obligation.

New law raises the ceiling from \$30,000 to \$40,000.

(Amends R.S. 9:315.19)

### **Child Support Review Committee (Act 223)**

New law provides that a designee of the Louisiana State Law Institute Marriage and Persons Advisory Committee may serve on the child support review committee instead of its reporter.

Effective August 1, 2016.

(Amends R.S. 9:315.16(B)(1))

### **Privileges Against Condominium Parcels (Act 244)**

Prior law provided that a recorded privilege against a condominium parcel preserved the right to file suit for one year from the date of recordation.

New law extends the privilege to file suit against a condominium parcel from one year to five years from the date of recordation.

New law requires the condominium association to pay attorney fees and all associated costs if the condominium association files a lien for dues not owed which in turn requires an owner or interest holder to file suit to have the lien or privilege released.

Effective August 1, 2016.

(Amends R.S. 9:1123.115)

### **Liability for Students with Developmental Disabilities (Act 226)**

New law provides a limitation of liability for a parent, tutor, or curator of a student with developmental disabilities which is contingent on all the following factors existing at the time of the injury or loss:

(1) The school developed and implemented a behavioral intervention plan as part of an Individualized Education Program (IEP).

(2) The parent, tutor, or curator of the student signed the IEP.

(3) The parent, tutor, or curator relinquished physical care, custody, and control of the student to the school.

(4) The parent, tutor, or curator was not present or exercising any physical care, custody, or control over the student at the school or school sanctioned event.

(5) The damage, injury, or loss must have been caused by a violation of the behavioral intervention plan by an employee of the school.

New law shall not apply if the damage, injury, or loss was caused by the negligence of the parent, tutor, or curator.

Effective August 1, 2016.

(Adds R.S. 9:2800.23)

### **Wind Mitigation Loans (Act 202)**

Prior law defines a premium finance agreement as an agreement by which an insured or prospective insured promises to pay to an insurance premium finance company the amount advanced or to be advanced under the agreement in payment of premiums on an insurance contract.

New law allows a premium finance agreement to include a loan agreement with the policyholder for wind mitigation retrofits to the insured property. New law requires the homeowners'

insurance policy to be issued to a homeowner who has financed the cost of wind mitigation retrofits with a consumer finance company for the purpose of obtaining wind mitigation and other credits on his homeowners' insurance policy.

New law provides that if the qualifying homeowners' insurance policy is cancelled, expired, or is not renewed, the wind mitigation loan agreement shall continue to be administered pursuant to its terms until paid in full. New law provides that any cancellation, expiration, or nonrenewal of the insurance policy shall not accelerate the due date of the wind mitigation loan.

Effective August 1, 2016.

(Amends R.S. 9:3550(B))

#### **Trust Code (Act 544)**

New law expands the definition of "person" in the Louisiana Trust Code to include a limited liability company.

New law provides that upon a principal beneficiary's death, an interest vests in his heirs or legatees, subject to the trust. However, the stipulations of the trust instrument may create substitute principal beneficiaries so long as any such provisions also follow the present law Trust Code.

New law provides 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. 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.

New law clarifies the language of present law and provides that if a 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.

New law clarifies the language of present law and reforms it to make it better conform with R.S. 9:2092.

New law adds that if a 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.

(Amends R.S. 9:1725(3), 1972, 1973, 2092, and 2262.2)

#### **Coroners and Dog Organizations (Act 628)**

New law authorizes the coroner to donate tissue or biological samples to an individual who is affiliated with an established search and rescue dog organization for the purpose of training a dog to search for human remains.

New law adds that any request for biological samples shall not be more than 28 grams per tissue and shall be made to the coroner on the requesting organization's letterhead and signed by the director, manager, or individual overseeing rescue dog training.

New law adds that a person shall be deemed affiliated with an established search and rescue dog organization if he presents the coroner with a signed letter from his director, manager, or other supervisor authorizing the request of biological samples.

Effective upon signature of governor (June 17, 2016).

(Adds R.S. 9:1551(F))

### **Cemetery Neighbors (Act 647)**

New law provides that an owner of property adjoining an enclosed cemetery who voluntarily grants a right of passage to persons who desire to have access to an enclosed cemetery shall not be liable for any injury, death, loss, or damages to persons using the voluntary right of passage.

New law provides that an owner granting the voluntary right of passage owes no duty of care to keep such property safe for entry or use by persons using the right of passage, and that the owner is not extending an assurance that the property is safe, or assuming responsibility for or incurring liability for any injury, death, loss, or damages to persons or property caused by any act of a person using the voluntary right of passage.

New law shall not apply to intentional or grossly negligent acts by the adjoining property owner.

New law specifies that the granting of the voluntary right of passage shall be revocable at any time, and that no acquisitive prescriptive period shall apply.

(Adds R.S. 9:2800.23)

## **TITLE 11: CONSOLIDATED PUBLIC RETIREMENT**

### **Municipal Employees' Retirement System (Act 19)**

New law provides that the commissioner of administration and the state treasurer, or their designees, serve as voting members of the Municipal Employees' Retirement System (MERS) board of trustees.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 11:1821(B))

### **State Retirement System - General Revision (Act 95)**

New law, relative to the state retirement systems, generally rearranges the content of present law to provide for ease of administration and clarification of certain actuarial concepts with respect to all four state retirement systems: (1) La. State Employees' Retirement System (LASERS), (2) Teachers' Retirement System of La. (TRSL), (3) La. School Employees' Retirement System (LSERS), and (4) State Police Retirement System (SPRS)

Continuing law, subject to certain caveats, provides for a schedule of maximum permanent benefit increases (PBI) amounts based on a system's funded percentage. The schedule ranges from a minimum of 1.5% for a system that is at least 55% funded but less than 65% funded to a maximum of 3.0% for a system that is at least 80% funded.

New law defines "funded percentage" for state systems to mean, generally, valuation assets used to determine contributions divided by accrued liability. New law, for purposes of determining the maximum PBI within the schedule in prior law, specifies that the funded percentage shall be determined before any allocation to the experience account.

Prior law provided that the amortization period for most actuarial changes, gains, or losses shall be permanently reduced from 30 years to 20 years in the June 30th system valuation following the fiscal year in which a system first attains a funded percentage of 85% or greater. New law changes the trigger from 85% to 72% for LSERS and to 70% for the other three state retirement systems.

Prior law provided that, effective for the June 30, 2019 valuation, actuarial gains allocated to the experience account shall be amortized as a loss with level payments over a ten-year period. New law provides for this ten-year loss amortization to begin with the first system valuation following June 30, 2015, in which an allocation is made to the system's experience account.

Prior law provided for multiple employer contribution rates at LASERS and TRSL for the various specialty plans within each system. New law consolidates all K-12 employee groups at TRSL into a single plan for rate purposes.

Prior law provided that, after a hurdle payment is made, the net remaining debt to which the payment is applied shall not be reamortized unless the system is 85% funded.

Beginning in the 2020-2021 Fiscal Year, new law provides for reamortization of the net remaining original amortization base liability when moving to level-dollar payments ending in 2029 results in annual payments that are not more than the next annual payment otherwise required under prior law.

New law provides that after a system first achieves a funded percentage of 80%, the debt to which any future hurdle payment is applied shall be reamortized over the remainder of the originally established amortization period. Until a system is 80% funded, new law further provides for reamortization of the net remaining liability after application of the hurdle payments in the 2019-2020 Fiscal Year and in every fifth fiscal year thereafter.

Prior law provided for the review of volatility of payment schedules with results reported to the Public Retirement Systems' Actuarial Committee by Nov. 1, 2019. New law requires the review of volatility to be done following the close of Fiscal Year 2016- 2017 and the report to be submitted by Nov. 1, 2017.

Prior law provided that the board of trustees of the SPRS may grant a supplemental cost-of-living adjustment to all retirees and beneficiaries who are at least age 65. New law changes cost-of-living adjustment to permanent benefit increase and authorizes the board of trustees to grant a permanent benefit increase to all retirees and beneficiaries who are at least age 65 and who retired on or before June 30,2001.

New law relocates numerous statutory provisions.

New law specifies that if the provisions of new law conflict with the provisions of any other Act of the 2016 Regular Session, the provisions of new law shall supersede and control regardless of the order of passage.

Effective June 30, 2016.

(Amends R.S. 11:102, 1145.1(F), and 1332(G))

#### **State Retirement System - Employer Contributions (Act 94)**

Prior law, relative to the state retirement systems, required that the annual actuarially required employer contribution to each system be a dollar amount equal to the sum of the cost of that year's benefit accruals and amortization payments for certain liabilities:

New law adds as an additional component the cost of projected noninvestment related administrative expenses for that year.

New law states that the new component shall begin to be included in the calculation in the first fiscal year in which the projected aggregate employer contribution rate, calculated without regard to any changes in the board-approved actuarial valuation rate, will not increase.

Effective June 10, 2016.

(Adds R.S. 11:102(B)(3)(e))

#### **Firefighter Retirement (Act 79)**

Existing law authorizes an employee who would otherwise be in the Firefighters' Retirement System (FRS) or the Municipal Police Employees' Retirement System (MPERS) and who is employed by a municipality, parish, or fire protection district that has its police officers or firefighters covered by Social Security, to decide not to be a member of the appropriate retirement system. Existing law requires that employee contributions to the retirement system be refunded without interest to an employee who decides not to be a member.

Existing law provides that an employee who decided not to be a member of MPERS is not eligible to rejoin MPERS while he is employed by the same municipality unless he repays his previously refunded employee contributions plus interest at the board-approved actuarial valuation rate. New law provides for rejoining FRS subject to the same repayment requirements as apply to MPERS.

Effective upon signature of governor (May 11, 2016).

(Amends R.S. 11:157(A) and (C))

### **New Orleans Fire Fighters' Fund (Act 599)**

Existing law establishes the Fire Fighters' Pension and Relief Fund in the city of New Orleans (NOFF) and provides for the assessment of contributions from employees in order to partially fund the benefits provided by the fund.

Prior law required an employee contribution of at least 10% of the employee's salary. New law provides instead that the minimum contribution is 10% of the employee's compensation allowed as salary.

New law prohibits claims against the city, the fire department, or the fund for such deductions once the member receives a distribution of any kind from the fund.

Prior law required the employee contribution assessments to be made on a monthly basis. New law requires such assessments to be made each pay period.

New law provides that member contributions are an "employer pick-up" plan pursuant to Internal Revenue Code provisions and shall be administered as prescribed by that code. Such plan authorizes an employer to deduct employee contributions from the member's pay and remit them directly to the system.

New law provides that the sums deducted by the employer for employee contribution purposes are to be counted as part of the employee's compensation allowed as salary for the purposes

of determining benefits and existing law minimum compensation requirements.

New law requires the city of New Orleans to remit collected employee contributions to the system at least once per month.

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 11:3363(B))

### **State Retirement Systems - COLAs (Act 93)**

Prior law designated the following as state retirement systems: (1) La. State Employees' Retirement System (LASERS), (2) Teachers' Retirement System of La. (TRSL or Teachers), (3) La. School Employees' Retirement System (LSERS), (4) State Police Retirement System (SPRS)

New law authorizes each state system board of trustees to grant a cost-of-living adjustment (COLA), payable July 1, 2016, to the retirees and beneficiaries who would qualify for a COLA under prior law.

Prior law provided the maximum amount of a COLA based on the consumer price index and the systems' funded ratio. Without regard to the consumer price index, new law provides that the amount of the COLA shall be an amount supported by the funds in the system's experience account, after all required credits and debits to the account under prior law.

New law provides that, in accordance with the funded ratio of each system, the maximum amount payable shall be 1.5% of the benefit subject to the increase for LASERS and TRSL and shall be 2% of the benefit subject to the increase for LSERS and SPRS.

New law provides that the benefit increase shall be paid only on the first \$60,000 of a retiree or beneficiary's benefit.

New law authorizes the board of trustees of the SPRS to grant a supplemental COLA in accordance with prior law to all retirees and



beneficiaries who are at least 65 and who retired on or before June 30, 2001.

New law provides that any cost of new law not funded by payments made from the system experience account shall be funded with additional employer contributions in compliance with prior law, Article X, Section 29(F) of the Constitution of Louisiana.

New law provides that if the instruments which originated as SB 5 and SB 18 of the 2016 RS do not become effective, new law shall be null and void and of no effect.

Effective June 30, 2016.

(Adds R.S. 11:542.2, 883.4, 1145.3, and 1332.1)

#### **State Retirement Systems - COLAs (Act 512)**

New law authorizes payment of a cost-of-living adjustment (COLA) for the retirees and beneficiaries of each of the four state retirement systems.

New law provides that retirees and beneficiaries who would qualify for a COLA under existing law qualify for receipt of the COLA authorized by new law. New law provides that a disability retiree or a person who receives benefits from the system based on the death of a disability retiree is eligible if benefits have been paid to the retiree or the beneficiary or both combined for at least one year.

New law provides that the amount of the COLA shall be an amount supported by the funds in the system's experience account up to specified maximum amounts.

Existing law for the State Police Retirement System further authorizes payment of a 2% supplemental COLA to retirees and beneficiaries who are age 65 or older. New law authorizes payment of such a supplemental COLA if the retiree retired on or before June 30, 2001, and provides that the amount of the supplemental COLA is an amount supported by the funds in the experience account after payment of the

general COLA authorized pursuant to new law but not exceeding 2%.

New law provides that the benefit increases authorized by new law shall be paid only on the first \$60,000 of a retiree's or beneficiary's benefit.

New law provides that any cost of the Act not funded by payments made from the system experience account shall be funded with additional employer contributions in compliance with Art. X, §29(F) of the Constitution of La.

Effective June 30, 2016.

(Adds R.S. 11:542.2, 883.4, 1145.3, and 1331.2)

#### **LGEFCDA and MERS (Act 99)**

New law authorizes employees of the La. Local Government Environmental Facilities and Community Development Authority (LGEFCDA) to participate in the Municipal Employees' Retirement System (MERS).

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 11:1732(14)(a)(x))

#### **Chenier Plain CRPA and LASERS (Act 160)**

New law adds employees of Chenier Plain Coastal Restoration and Protection Authority (CPCRP) to the membership of La. State Employees' Retirement System (LASERS).

Effective July 1, 2016.

(Adds R.S. 11:411(12))

#### **Iberia Parish ILHCD and LASERS (Act 161)**

New law adds employees of Iberia Parish Levee, Hurricane and Conservation District (ILHCD) to the membership of LASERS.

Effective July 1, 2016.

(Adds R.S. 11:411(12))

### **TRSL Board Meetings (Act 159)**

Prior law, relative to the Teachers' Retirement System of La. (TRSL), required that the board of trustees meet at least once a month. New law provides that the board shall meet at least 10 times each calendar year.

Effective June 30, 2016.

(Amends R.S. 11:703)

### **Firefighters Retirement System (Act 208)**

New law amends Firefighters' Retirement System in minor ways that make it more similar to other statewide retirement systems.

Effective July 1, 2016.

(Amends R.S. 11:107.1 and 107.2; adds R.S. 11:105(A)(7) and 107(A)(6))

### **Fire Fighters' Retirement System (Act 231)**

New law authorizes the Firefighters' Retirement System to make payment of interest at a rate not to exceed the system's valuation interest rate if an underpayment of benefits was attributable to administrative error on the part of system staff.

(Amends R.S. 11:2260.1)

### **Firefighters' Disability Benefits (Act 209)**

New law provides that a member of FRS is not eligible for a disability benefit if the disability is indirectly a result of a preexisting condition, for example, if fire department employment has made such a condition worse. New law prohibits the board of trustees from considering the fact that the member was found to be fit for fire department employment in determining whether a disability is the result of a preexisting condition.

New law further provides that an appeal of a decision that the member is ineligible because the disability preceded employment may be instituted by the member or his beneficiary by filing a petition in the district court within 30

days after receipt of written notice of the decision.

Effective upon signature of governor (May 26, 2016).

(Amends R.S. 11:2258; adds R.S. 11:2258.1)

### **Firefighter Appeals (Act 78)**

New law requires that an appeal by a member of the Firefighter's Retirement System (FRS) of a decision regarding his eligibility for disability benefits be filed within 30 days.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 11:2258.1)

### **Registrars of Voters Employees' Retirement System (Act 423)**

Prior legislative Act removed an explicit cap on the amount of benefits that could be received by members of the Registrars of Voters Employees' Retirement System (ROVERS) hired prior to Jan. 1, 2013; the cap was 100% of average compensation. New law reinstitutes the benefit cap of 100% of average compensation for such members.

Effective upon signature of governor (June 9, 2016).

(Amends R.S. 11:2072)

### **Parochial Employees' Retirement System (Act 424)**

Existing law authorizes a member of the Parochial Employees' Retirement System (PERS) to continue in employment once his Deferred Retirement Option Plan (DROP) participation period ends, and provides that the member's account balance at the end of his DROP participation period shall be placed in liquid asset money market investments selected by the board of trustees.

Prior law authorized interest to be credited to the member at the actual rate of return earned on the account balances, and provided that after the DROP participation period ended, the member could transfer his balance to a self-directed money market account with a third-party provider.

New law requires interest to be credited annually using the preceding 12-month average of interest paid by the custodial bank's prime money market institutional shares fund.

Effective upon signature of governor (June 9, 2016).

(Amends R.S. 11:1938(F)(2))

#### **School Employees' Retirement System (Act 319)**

Prior law, relative to the La. School Employees' Retirement System (LSERS), provided for notification procedures informing any member who has less than 10 years of service credit and who has been out of service for five years without having applied for a refund of contributions, of his rights with respect to his contributions, including his right to a refund and his right to leave the contributions with the system if he plans to reenter service covered by LSERS on another system.

New law adds that the notification shall include information on his rights to use the contributions for a transfer of service credit and any rights he may have to receive a retirement allowance pursuant to prior law.

Prior law provided that in the event the system does not receive any response to the notification within 90 days of mailing, the contributions shall be credited to the pension accumulation fund. New law removes the requirement to credit contributions to the pension accumulation fund.

Effective June 30, 2016.

(Amends R.S. 11:1149)

#### **School Employees Retirement System (Act 320)**

Prior law allowed an active, contributing member of LSERS to purchase credit in the system for service rendered as an employee. New law allows any person who has been a member of LSERS to purchase credit in the system for service rendered as an employee.

Prior law allowed the purchase of service credit if the member does not have service credit in any other public retirement system. New law clarifies that the member not have credit in any Louisiana public retirement system.

New law deletes the requirement that the member purchase a minimum of 90 days service.

New law requires that additional actuarial costs under new law which are not funded by member payments be funded with increased employer contributions.

Effective June 30, 2016.

(Amends R.S. 11:1137)

#### **School Employees' Retirement System (Act 321)**

Prior law, relative to the La. School Employees' Retirement System (LSERS), provided for a participant to receive funds from his individual deferred retirement option subaccount in one of two ways: a lump sum distribution or systematic disbursements approved by the board. New law deletes the requirement for the disbursements to be systematic.

Effective June 30, 2016.

(Amends R.S. 11:1152(G)(1))

#### **State Police Retirement System (Act 322)**

Prior law provided for retirement due to total and permanent disability at the La. State Police Retirement System (SPRS).

Prior law also relative to SPRS, provided for retirement due to total or partial disability. New law repeals language referring to total or partial disability.

Effective June 30, 2016.

(Amends R.S. 11:1345.7(B); adds R.S. 11:1313(D) and 1345.7(D); repeals R.S. 11:211)

### **Sheriffs' Pension and Relief Fund (Act 323)**

Prior law, relative to the Sheriffs' Pension and Relief Fund (Fund), provided for death benefits to be paid to a member's surviving spouse or minor children born of the marriage or both if the member dies while in the line of duty.

New law adds that when a member dies in the line of duty because of an intentional violent act, the surviving spouse or minor children or both shall be eligible to receive death benefit in accordance with new law.

New law provides that the surviving spouse shall be eligible to receive the greater of 50% of the member's final average compensation (FAC) or a reduced benefit as if the member had retired on the date of death.

New law provides that if the member leaves a child or children in addition to the surviving spouse, the child or children shall be eligible to receive in the aggregate a benefit equaling the difference between the benefit received by the spouse and 100% of the member's FAC.

New law provides that when a child reaches the age of 18, the benefit shall cease unless the child is enrolled as a full-time student in good standing at a board-approved or accredited school, college, or university and is under the age of 23.

New law provides that in the event of the death of the surviving spouse while any eligible surviving child or children are still eligible to receive a benefit, the surviving spouse's portion of the death benefit shall be divided equally amongst all eligible children.

New law provides that if there is no surviving spouse, any child or children shall be eligible to receive 100% of the member's FAC divided equally among the surviving children.

New law provides that if there is no surviving spouse, the benefit payable to the minor child or children shall be paid to a trust satisfactory to the Fund and established by law.

Effective June 30, 2016.

(Adds R.S. 11:2178(D)(4))

### **Retirement System Boards (Act 621)**

Existing law establishes 13 state and statewide retirement systems, plans, and funds.

New law places a member of the House Committee on Retirement appointed by the speaker of the House of Representatives as a trustee on each such board, instead of the chairman of the House Committee on Retirement.

Existing law for every system except the State Police Retirement System authorizes the legislative ex officio trustees to appoint designees. New law authorizes the legislative trustees to also appoint designees to serve on the State Police Retirement System board.

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 11:181, 511(1), 822(A)(5), 1162(A)(2), 1302, 1471, 1541, 1651(B)(1), 1821(B)(5), 1981(B), 2091(B)(1), 2173, 2225(A)(2)(a), and 2260(A)(2)(d))

### **Municipal Employees' Retirement System Board (Act 648)**

New law changes the qualifications for and voting rights of members of the board of trustees of the Municipal Employees' Retirement System (MERS).

New law provides that no trustee shall accept any thing of economic value, including food and

drink and complementary admission to, lodging at, or reasonable transportation to and from educational or professional development seminars and conferences, from a person who has or is seeking to obtain contractual or other business or financial relationship with the board.

New law provides that the prohibition on receipt of food and drink does not apply during educational or professional development seminars.

New law requires the board to report, with the system's annual financial statement, an itemized schedule of all amounts paid by the system to or on behalf of the system's board members.

New law provides that the board may not authorize the use of system funds to pay for board member attendance at more than one seminar or conference out of state per fiscal year, and that any seminar or conference paid for by the board shall be affiliated with an association related to state retirement systems.

Effective August 1, 2016.

(Amends R.S. 11:1821 and 1842; Adds R.S. 11:1823(A)(22))

#### **Reemployed Municipal Employees (Act 649)**

Existing law provides that during a period of reemployment of a retiree of the Municipal Employees' Retirement System (MERS), his employment income plus his retirement benefit may not exceed his final average compensation; if it does, his retirement benefit is reduced by the excess amount.

New law requires that during the period of reemployment of a retiree who is first reemployed on or after July 1, 2016, the retiree and his employer make contributions to the retirement system, but the retiree shall not receive additional service credit or accrue additional benefits in the retirement system. New law further provides that upon termination of reemployment, employee contributions shall be refunded to the retiree without interest and

provides that the retirement system retains the employer contributions and interest.

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 11:1762(A) and (B))

#### **Clerks of Court Retirement Fund (Act 650)**

Existing law for the Clerks of Court Retirement and Relief Fund establishes a 40-year amortization schedule for payment of its unfunded accrued liability existing as of the end of the system's fiscal year in 1989 (IUAL).

Prior law provided debt payment amounts increased by 4.75% each year. New law requires re-amortization of the remaining balance of the IUAL and annual level dollar payment over the remainder of the 40-year payment period.

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 11:42(B)(intro. para.) and (2))

#### **New Orleans Firefighters (Act 651)**

New law provides that for those hired on or after Aug. 15, 2016, the specified age of retirement eligibility for the Firefighters' Pension and Relief Fund in the city of New Orleans (NOFF) is the retirement age defined by the Social Security Act, less 10 years.

Prior law provided that for a member of NOFF hired on or after Jan. 1, 2015, his retirement benefit shall be calculated as follows: 2.75% x (5-year Final Average Compensation (FAC)) x years of service.

New law provides that for a member hired on or after Aug. 15, 2016, the benefit shall be calculated as follows: 2.5% x (5-year FAC) x years of service.

Effective August 15, 2016.

(Amends R.S. 11:3384 and 3386(B))

### **New Orleans Firefighters (Act 652)**

Existing law establishes the Deferred Retirement Option Plan (DROP) in the Firefighters' Pension and Relief Fund in the city of New Orleans (NOFF).

New law prohibits a member who elects to participate in DROP from also taking an initial lump sum benefit.

New law requires the board, upon expiration of DROP participation or termination of employment, to invest DROP account balances in liquid asset money market investments. New law provides that interest shall be the actual rate of return earned on the investments.

New law authorizes a member participating in DROP on or after Jan. 1, 2016, to waive the guarantee provisions for DROP account balances provided by existing law and to authorize debits to his DROP account in order to have his DROP account balance placed into the fund's investment portfolio and to earn interest at a rate based on a five-year average of the actuarially determined composite rate of return of the pension fund, less a two percent administrative fee.

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 11:3385.1(H)(2) and (N))

### **New Orleans Firefighters' Retirement (Act 653)**

New law authorizes a member of the Firefighters' Pension and Relief Fund in the city of New Orleans, at retirement, to convert unused annual and sick leave to additional retirement credit. New law requires written notice of the member's election to convert leave pursuant to new law to be filed with the board prior to retirement.

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 11:3391)

## **TITLE 12: CORPORATIONS AND ASSOCIATIONS**

### **Corporate Termination (Act 89)**

Present law provides that when the existence of a corporation terminates, the corporation's juridical personality is also terminated except for certain specified purposes, including to continue in ownership of any undistributed corporate assets.

New law adds as additional purpose to dispose of immovable property owned by the corporation pursuant to a resolution of the board of directors.

(Adds R.S. 12:1-1443(B)(4))

### **Corporate Restated Articles and Annual Reports (Act 107)**

Existing law authorizes a corporation to restate its articles of incorporation and to subsequently file with the secretary of state a consolidated, single document of the amended, restated articles of incorporation.

New law modifies existing law by requiring a corporation to include the entire text of the original articles of incorporation, as amended by all amendments, when filing the restated articles with the secretary of state.

Prior law provided that if a corporation delivered a corrected annual report to the secretary of state within 30 days after the effective date of notice, the corrected annual report was deemed as timely filed. New law repeals prior law.

Effective August 1, 2016.

(Amends R.S. 12:1-1007 and 1-1621(D))

### **Business Corporation Act Fixes (Act 442)**

New law incorporates revisions to the Business Corporation Act since the enactment of existing law and provides for other technical corrections.

New law adds criteria for director qualifications to existing law and recognizes a director as a "qualified director" when certain limitations concerning the offer of potential business opportunities to the corporation, and certain relationships, do not apply to the director.

Prior law required the articles of incorporation to state whether the corporation accepts, rejects, or limits certain protections of existing law. New law requires the corporation to include a statement of rejection or limitation of the protection against liability if desired.

New law adds that a prospective limitation or elimination of the duty to offer business opportunities to the corporation may be included in the articles of incorporation.

New law provides for remote participation in annual and special shareholders' meetings, including guidelines and procedures for such participation.

Prior law provided that greater quorum or voting requirements for shareholders may be included in the articles of incorporation. New law adds that lesser quorum requirements for shareholders may be included in the articles of incorporation.

Prior law provided that qualifications for directors may be included in the articles of incorporation or bylaws. New law adds the specific qualifications for directors or nominees for directors that may be included and the applicability of such qualifications.

Prior law provided that a board of directors' meeting may be called by the board chair, by the chief executive officer, or by a majority of the directors. New law allows meetings of the board of directors to also be called in accordance with the bylaws.

Prior law provided that a director is not liable unless the party asserting liability establishes that there is no defense for the director based on certain provisions of existing law. New law adds that certain authorized provisions in the articles of incorporation do not preclude liability.

Existing law provides for protection against monetary liability for directors and officers of all La. business corporations, including those formed under former law. New law provides a transitional rule for corporations whose articles of incorporation contain "opt in" exculpation provisions under former law.

Existing law provides for directors who take advantage of certain business opportunities. New law makes existing law applicable to directors, officers, and persons who have relationships with directors or officers (related persons). New law requires a director or officer to bring a business opportunity to the attention of the board prior to the director, officer, or related person becoming legally obligated to such opportunity.

Existing law provides for the effects of entity conversion. New law adds that a foreign entity may be served in accordance with the service of process rules for foreign corporations when certain conditions would apply.

New law provides that a public corporation may elect in its bylaws to provide for certain shareholder voting rights.

New law repeals certain director election provisions, replacing them with a more general statement of authority. New law provides for a shareholder's means to vote against the election of an individual to serve as a director, and regardless of a director's election by plurality vote, to limit the term or require the resignation of any director who receives more votes against than for his election.

Old law required the articles of merger or share exchange to be signed on behalf of each party to the transaction. New law adds an exception for any subsidiary that is a party to a merger authorized without the approval of its board of directors or shareholders.

New law allows an oppressed shareholder to deliver an affidavit with respect to any share certificates that were previously delivered to the corporation.

New law provides a transition rule for reinstatement of a corporation whose charter was revoked before Jan. 1, 2015. New law generally provides for such a corporation seeking reinstatement to file with the secretary of state a current annual report along with articles of charter-revocation reinstatement.

Effective August 1, 2016.

(Amends numerous sections within R.S. 12:1.)

#### **LLC Dissolution by Affidavit (Act 147)**

Present law authorizes a limited liability company's dissolution by affidavit if the limited liability company is no longer doing business and owes no debts.

New law further requires that the limited liability company not own immovable property.

Effective Feb. 1, 2017.

(Amends R.S. 12:1335.1(A))

#### **LLC Member Death or Dissolution (Act 170)**

Prior law generally provided that if a member of a limited liability company who is an individual dies or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the member's membership ceases and the member's executor, administrator, guardian, conservator, or other legal representative shall be treated as an assignee of such member's interest in the limited liability company. Prior law generally provided that if a member is a corporation, trust, or other entity and is dissolved or terminated, the member's membership ceases and the member's legal representative or successor shall be treated as an assignee of such member's interest in the limited liability company.

New law allows an exception to the general rule if provided for in the articles of organization or a written operating agreement.

Effective August 1, 2016.

(Amends R.S. 12:1333(A) and (D))

### **TITLE 13: COURTS AND JUDICIAL PROCEDURE**

#### **Constables – Caddo Parish (Act 39)**

New law requires each constable of a justice of the peace court in Caddo Parish to report information relative to the deputy constable to the Caddo Parish Sheriff on or before Aug. 1st of each year.

Effective upon signature of the governor (May 10, 2016).

(Amends R.S. 13:2583.3(A))

#### **4th JDC Re-entry Division (Act 54)**

New law authorizes the 4th JDC to establish a reentry division of court, which would be responsible for developing a workforce development sentencing program with specific qualifications and requirements.

Effective August 1, 2016.

(Adds R.S. 13:5401(C)(10))

#### **Continuances for Legislators (Act 101)**

Old law provides that a member of the legislature and a legislative employee shall have peremptory grounds for continuance or extension of a criminal case, civil case, or administrative proceeding:

(1) Any time between 15 days prior to the original call to order and 15 days following the adjournment sine die of any legislative session.

(2) Any time between 15 days prior to convening and 15 days following adjournment sine die of any constitutional convention.

New law extends the 15-day period to a 30-day period for any session of the legislature and any constitutional convention.



New law adds "travel" as an activity subject to the automatic continuance.

(Amends R.S. 13:4163(C)(1))

### **Court Costs (Act 131)**

New law expands the applicability of an existing 50¢ court cost to include all initial civil filings and criminal convictions, including traffic offenses.

Present law requires the collection of an additional court cost in the amount of 50¢ to be collected by the Supreme Court, appellate courts, district courts, parish courts, and city courts, upon civil filings and traffic matters, with exceptions for some juvenile and family matters. Present law is contained in nine separate provisions of law, one for each court collecting the cost.

New law repeals the nine provisions of law and consolidates them into one provision. New law provides that the 50¢ cost shall be collected for the initial filing in all civil matters, with no exceptions, and provides that the 50¢ cost shall be assessed as court costs for criminal convictions, including traffic offenses.

(Adds R.S. 13:86; Repeals R.S. 13:126.1, 352.1, 841.3, 1213.3, 1912, 2157.1, 2500.5, 2520, and 2565)

### **Civil District Courthouse (Act 138)**

Existing law creates the Judicial District Court Building Commission for the construction and funding of the Civil District Courthouse in the parish of Orleans and provides for membership of the commission.

Existing law authorizes and provides certain conditions for the Civil District Court for the parish of Orleans and its clerk of court to impose additional court costs and service charges until the bonded indebtedness or lease obligation is paid.

Prior law provided that if public bids were not let for construction or a lease agreement

executed for a privately constructed facility for use as a courthouse by Aug. 15, 2016, then the authority to levy the additional costs and charges by the Civil District Court for the parish of Orleans shall terminate and be null and void.

New law extends the deadline from Aug. 15, 2016, to Aug. 15, 2021.

Effective August 1, 2016.

(Amends R.S. 13:996.67(D))

### **Reporting of Convictions Affecting Gun Rights (Act 124)**

Present law requires that each district clerk of court report to the La. Supreme Court, for reporting to the National Instant Criminal Background Check System (NICS) database, the name and other identifying information of an adult who is prohibited from possessing a firearm under state or federal law, by reason of one of various convictions or adjudications in a court of that clerk's district.

New law adds a conviction of domestic abuse battery to the list of reported convictions.

New law provides for a similar reporting requirement for each city and parish clerk of court, effective January 1, 2017.

(Amends R.S. 13:753)

### **Sheriff Retirement Benefits in Calcasieu Parish (Act 120)**

New law provides that in the parish of Calcasieu, certain insurance premiums shall be paid from the sheriff's general fund for any sheriff and full-time deputy sheriff who meets certain criteria.

Effective August 1, 2016.

(Adds R.S. 13:5554(G)(5))

### **Franklin City Court (Act 112)**

New law changes the territorial jurisdiction of the City Court of the town of Franklin.

Effective August 1, 2016.

(Amends R.S. 13:2488.1(A))

### **Fax Filing in Civil and Criminal Court (Act 109)**

Old law provides that facsimile 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.

New law removes the requirement that the filing is complete after the clerk of court transmits a receipt.

New law 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.

New law provides that the facsimile filing shall have the same force and effect as filing the original document, if the filing party subsequently files the identical original documents within seven days and pays the required fees.

(Amends R.S. 13:850 and 2562.25 and C.Cr.P. Art. 14.1)

### **Veterans Court Probation Programs (Act 181)**

Present law provides for the creation of Veterans Court probation programs in district courts.

New law retains the provisions of present law and provides that, with the consent of the district attorney, the court may defer proceedings and

place a defendant on probation when the court determines that it is in the best interest of justice.

New law provides that once the term of probation is completed, the criminal charges shall be dismissed against the person. New law provides that the dismissal of charges shall be without court adjudication of guilt and shall not be deemed a conviction. New law provides that this dismissal shall only occur once with respect to any person.

New law provides that if the defendant is accepted into the Veterans Court program, the defendant must waive the right to trial.

(Adds R.S. 13:5368)

### **City Court Equipment (Act 249)**

New law provides that "equipping" of city courts includes all costs associated with new and existing software and electronic case management systems for court use.

Effective upon signature of the governor (May 26, 2016).

(Amends R.S. 13:1910(C))

### **Child Support Actions (Act 216)**

New law requires that notice be provided by the clerk or deputy clerk in child support actions and provides for the contents of the notice.

New law provides that the failure to give the required notice does not invalidate an otherwise valid child support judgment rendered.

Effective August 1, 2016.

(Adds R.S. 13:3494 and 3495)

### **Concordia Sheriffs' Insurance Costs (Act 228)**

Existing law provides that the premium costs of group hospital, surgical, medical expense, and dental insurance and the first \$10,000 of life insurance shall be paid in full from the sheriff's

general fund for all sheriffs and deputy sheriffs who retire with at least 15 years of service who are at least 55 years of age or retired with at least 30 years of service at any age.

New law provides that in the parish of Concordia, existing law only applies to sheriffs and deputy sheriffs who retire or are eligible to retire prior to Sept. 1, 2017.

New law also provides that in the parish of Concordia, these premium costs and the first \$10,000 of life insurance shall be paid in full from the sheriff's general fund for all sheriffs or deputy sheriffs who retire or are eligible to retire on or after Sept. 1, 2017, and have:

(1) Retired or are eligible to retire from the Concordia Parish Sheriff's Office on or before Sept. 1, 2017, after 15 years of continuous and creditable service and are at least 55 years of age.

(2) 30 or more years of continuous and creditable service with the Concordia Parish Sheriff's Office at any age who are eligible to retire after Sept. 1, 2017.

Effective August 1, 2016.

(Adds R.S. 13:5554(G)(5))

#### **Veterans Court Program (Act 230)**

New law expands the scope of those defendants eligible to participate in the Veterans Court program by prohibiting only those defendants with a conviction of a homicide or sex offense, as well as defendants with a pending criminal charge of a homicide or sex offense and defendants with a pending charge of driving under the influence of alcohol or drugs that results in the death of a person.

New law provides that if the crime before the court is domestic abuse battery or domestic abuse aggravated assault, the defendant shall comply with the following additional requirements as conditions of eligibility in the Veterans Court program:

(1) Completion of a court-monitored domestic abuse intervention program as defined by existing law (R.S. 14:35.3).

(2) No ownership or possession of a firearm while under the supervision of the Veterans Court program or court-ordered probation.

Prior law provided that a defendant previously convicted or adjudicated for the offense of simple battery shall not be deemed ineligible for Veterans Court program. New law removed this provision of prior law and provides that 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.

Effective August 1, 2016.

(Amends R.S. 13:5366(B)(9) and (10))

#### **Hammond City Court (Act 211)**

New law adds the clerk of the City Court of Hammond to the list of clerks of court who may destroy certain misdemeanor records which have been deemed to be of no further use or value.

(Amends R.S. 13:1904(D))

#### **Court Reentry Divisions (Act 221)**

New law authorizes the 14th JDC, 21st JDC, and the 32nd JDC to establish a reentry division of court responsible for developing a workforce development sentencing program with specific qualifications and requirements.

Effective August 1, 2016.

(Adds R.S. 13:5401(C)(10), (11), and (12))

#### **Assumption Parish Sheriff's Office (Act 295)**

New law changes health insurance benefits in the Assumption Parish Sheriff's Office.

Effective July 1, 2016.

(Adds R.S. 13:5554(H)(4))

#### **24<sup>th</sup> JDC Filing Fees (Act 391)**

New law increases the existing fee for filing any type of civil suit or proceeding with the clerk of court of the 24th Judicial District from \$15 to \$35.

Effective upon signature of the governor (June 5, 2016).

(Amends R.S. 13:994(A))

#### **Rehabilitation and Sentence Suspension (Act 421)**

Existing law provides that if a defendant successfully completes the Offender Rehabilitation and Workforce Development Program, the defendant can petition the court to suspend the remainder of his sentence and be placed on probation under the intensive supervision of the reentry court.

New law provides that a minimum mandatory sentence that is generally imposed without the option of probation, parole, or suspension of sentence may be suspended if the defendant is placed on probation under the supervision of the reentry court, unless the crime before the court involves a firearm or dangerous weapon during the commission of a crime of violence pursuant to R.S. 14:95(E) (illegal carrying of weapons).

Effective August 1, 2016.

(Amends R.S. 13:5401(B)(7)(c))

#### **Court Costs and Government Litigants (Act 449)**

Prior law provided that the state, local governments, and their officers and employees were not required to pay court costs and if court costs were "temporarily deferred", then these costs were not to be shifted to opposing parties during the pendency of the deferral.

New law provides explicitly that such governments and their officers and employees may temporarily defer court costs. New law also provides that agents of state and local

government entities, in addition to officers and employees, may temporarily defer court costs and specifies that the cost of filing a judgment dismissing claims is included in costs that may be temporarily deferred.

Existing law requires governmental entities and their officers and employees to assist in collecting court costs due by opposing litigants by requesting the court to tax costs in accordance with existing law. New law further requires those governmental agents, officers, and employees to specifically request that the court include the cost assessment in a judgment dismissing the claim against the governmental entity.

New law provides that when a final judgment is issued dismissing all claims against, and taxing costs to, the state, political subdivision, or agent, officer or employee, the opposing party shall pay the temporarily deferred court costs.

New law imposes a duty on the governmental entity to pay costs assessed against it or its agents, officers, or employees within 30 days of the judgment becoming final, except when the law otherwise imposes personal responsibility for costs on the agent, officer, or employee.

New law further provides that if an opposing party condemned to pay temporarily deferred court costs fails to pay within 30 days, the clerk of court may forward a certified copy of the recorded judgment to the office of debt recovery. New law also authorizes the office of debt recovery to collect outstanding deferred court costs on behalf of the clerk of court.

Effective upon signature of governor (June 9, 2016).

(Amends R.S. 13:4521)

#### **Suits Against Political Subdivisions (Act 341)**

Prior law provided an exception to the general rule that no suit against a political subdivision of the state shall be tried by jury. New law repeals prior law exception that was declared unconstitutional by the La. Supreme Court in

*Kimball v. Allstate Ins. Co.*, 712 So. 2d 46 (La. 1998).

Effective upon signature of the governor (June 2, 2016).

(Repeals R.S. 13:5105(C))

#### **Jefferson Parish Expungement Fees (Act 334)**

Prior law authorized the clerk of court in Jefferson Parish to demand and receive a \$100 filing and processing fee for all felony expungement proceedings filed in the 24th JDC and a \$50 filing and processing fee for all misdemeanor expungement proceedings filed in the 24th JDC and the First and Second Parish Courts for the parish of Jefferson. New law repeals prior law.

Effective August 1, 2016.

(Repeals R.S. 13:847(E)(1)(c) and (d))

#### **Representation of Parish Court Judges (Act 476)**

Present law requires the attorney general to provide legal representation to a city court judge for claims arising out of the discharge of his duties, within the scope of his office, and not resulting from intentional wrongful acts or gross negligence, with various attendant duties.

New law provides same regime for a parish court judge.

Effective August 1, 2016.

(Adds R.S. 13:2564.3)

#### **Representation of Deputy Constables (Act 471)**

Present law requires the attorney general to provide legal representation to a justice of the peace or constable for claims arising out of the discharge of his duties, within the scope of his office, and not resulting from an intentional wrongful act or gross negligence. New law adds deputy constables.

Present law requires justices of the peace and constables to provide a copy of any pleading they are served with to the attorney general within five days of service. New law adds deputy constables.

New law provides that if a court determines that a justice of the peace, constable, or deputy constable was not acting in the discharge of his duties or within the scope of his office, or intentionally acting in wrongful or grossly negligent manner, then he shall reimburse the attorney general for expenses incurred, including court costs and reasonable attorney fees.

Present law provides the attorney general's decision to not represent a justice of the peace or constable and all information obtained in the attorney general's investigation is confidential and inadmissible as evidence and no reference to the attorney general's decision is to be made in any trial or hearing. New law adds deputy constable.

New law authorizes the attorney general to decline to represent a deputy constable who is not in compliance with statutory requirements as to qualifications, oaths, compensation, and requisite training requirements.

Effective August 1, 2016.

(Amends R.S. 13:2593)

#### **34th JDC Court Reporter Fees (Act 549)**

Present law provides that in all cases in the 34th JDC, the court reporter shall be paid a fee as determined by a majority of the judges en banc, which fee shall not exceed \$2.75 for each original 32-line page transcribed, and where a copy is requested by a litigant, shall furnish such copy and be paid a fee for each page of the transcript.

New law removes present law relative to a majority of the judges determining the amount of the fee.

New law specifies that for all cases on appeal, the reporter shall be paid a fee not to exceed \$3

for each page transcribed, and increases from 25¢ to \$1.50 the per page fee paid by a litigant requesting a copy of the transcript.

New law provides that for matters not on appeal, a litigant requesting a transcript of testimony shall enter into a fee-based private civil contract with the court reporter, which fees shall be in accordance with fees customarily charged in the judicial district for depositions.

(Amends R.S. 13:980(D)(1))

#### **Autopsy Reports & Related Records (Act 578)**

New law provides that the coroner shall provide one copy of the autopsy report at no charge upon request by the parent, spouse, sibling, child, grandchild, niece, nephew, aunt, uncle, or next of kin if there are none of the enumerated surviving relatives.

New law adds that the coroner shall provide copies of the records, writings, and documents of any description in any way compiled, drafted or recorded in connection with an autopsy at no charge to the appropriate law enforcement agencies as requested.

New law provides that the records, writings, and documents of any descriptions in any way compiled, drafted, or recorded in connection with an autopsy shall be provided by the coroner to the enumerated relatives or next of kin upon payment of a reasonable copying charge.

New law shall not apply to the decedent's medical records.

New law provides that records, writings, and documents in any way compiled, drafted, or recorded in connection with an autopsy generated by a public entity other than a coroner shall be obtained from the public entity generating those records, writings, and documents.

Effective upon signature of the governor (June 17, 2016).

(Amends R.S. 13:5713(J))

#### **Probation Violation (Act 609)**

Old law provided that if a defendant violates the terms of the drug division probation, the court may revoke probation and order that the defendant serve the sentence previously imposed or suspended or the court may revoke probation and order the defendant be committed to DPS&C for not more than six months to the intensive incarceration program.

New law provides that if the court finds that the probationer has violated a condition of probation or a provision of the probation agreement, it may: (1) reprimand and warn the defendant, (2) order that the probationer perform community service, (3) order that the probationer enter and participate in short-or-long term treatment, (4) order that supervision be intensified, (5) add additional conditions to the probation, or (6) order the probationer be required to serve a sentence of not more than 12 months without diminution of sentence in the DPS&C intensive incarceration program.

New law provides that a court may sentence a defendant to incarceration for up to 180 days or impose sanctions provided by present law and extend probation and treatment for technical violations.

(Amends R.S. 13:5304)

#### **Ascension Parish Court (Act 612)**

New law makes various changes to the manner and extent to which Ascension Parish Court is funded.

Effective upon signature of the governor (June 17, 2016).

(Amends R.S. 13:2563.5 and 2563.17)

#### **East Baton Rouge Parish Funds (Act 622)**

New law repeals statutes providing for certain funds collected by courts in East Baton Rouge Parish to be used for a misdemeanor detention

facility, and distributes the funds collected to the Misdemeanor Detention Fund, East Baton Rouge Parish Public Defender's Office and East Baton Rouge District Attorney's Office.

(Repeals R.S. 13:1000.10, 1415, 2002.1, 2488.40, and 2489.1)

### **New Orleans Municipal & Traffic Court (Act 631)**

Existing law provides for the Municipal and Traffic Court of New Orleans. (Act No. 845 of 2014 R.S. merged the two separate municipal and traffic courts into the one consolidated court, to become effective Jan. 1, 2017.)

New law provides for the following changes:

(1) Amends the qualifications for judgeships from having five years of experience as an attorney to having eight years of experience, and provides that judicial candidates must be domiciled in the parish of Orleans for at least two years prior to election.

(2) Reduces the number of judgeships from eight to seven, prohibits the judges in Divisions A through D from engaging in the practice of law, and provides that the judges in Divisions E-G shall have that same prohibition on a staggered basis.

(3) Provides that the salary of the judges shall be equal to that of the district court judges.

(4) Provides for the appointment of ad hoc judges selected pursuant to rules of the La. Supreme Court when a judge is temporarily absent.

(5) Provides for the clerk of court's salary to be set by the judges en banc.

(6) Removes the automatic requirement in prior law that all testimony be taken verbatim, and provides that it be done upon request of any party.

(7) Provides that the sheriff of Orleans, New Orleans Police Dept., and city constable provide

one P.O.S.T. certified officer for each division of the court.

(8) Provides that each judge shall appoint four employees in addition to any employee otherwise provided by law, and removes prior law provisions requiring the judge to appoint various personnel.

(9) Removes prior law specifying the prosecuting authority for the court.

(10) Provides that all prosecutions other than parking violations may be assessed an additional cost per offense against every defendant convicted.

(11) Removes prior law sanctions for failure to pay court costs.

(12) Adds a provision requiring each judge to remit all fines collected monthly to the city treasurer of New Orleans.

(13) Repeals prior laws regarding the jurisdiction of the court, and regarding court crier appointments and salary.

Effective January 1, 2017.

(Amends R.S. 13:2492, 2493, 2495(B), 2495.1(A), 2496(A), 2496.2(A), 2496.3(F) and (G)(3), 2497(A), 2498, 2499, 2500.1(A), 2500.2, and 2501; repeals R.S. 13:2496.1)

### **City Public Defender Funds (Act 638)**

New law creates the Morgan City Public Defender Fund Board to manage and oversee funds remitted to the Morgan City Public Defender Fund.

New law creates the New Iberia Public Defender Fund Board to manage and oversee funds remitted to the New Iberia Public Defender Fund.

New law creates the Franklin Public Defender Fund Board to manage and oversee funds remitted to the Franklin Public Defender Fund.

New law creates the Breaux Bridge Public Defender Fund Board to manage and oversee funds remitted to the Breaux Bridge Public Defender Fund.

New law creates the Jeanerette Public Defender Fund Board to manage and oversee funds remitted to the Jeanerette Public Defender Fund.

Effective August 1, 2016.

(Amends R.S. 13:2005.1, 2488.7, and 2488.77; adds R.S. 13:2005(D) and (E) and 2013)

#### **East Baton Rouge Court Costs (Act 644)**

Present law provides for court costs in criminal and juvenile matters.

New law provides for additional court costs in the amount of \$10 for the 19th Judicial District Court Building Commission or \$10 for the Juvenile Court of East Baton Rouge Parish, as applicable.

The additional court cost authorized by new law will expire on or after Aug. 1, 2021.

(Adds R.S. 13:1000.7)

### **TITLE 14: CRIMINAL LAW**

#### **Fetal Body Parts (Act 196)**

New law provides that no person may knowingly and for money, including but not limited to fees for storage or handling, any payments for reimbursement, repayments, or compensation, or any other consideration:

(1) buy, 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 transaction prohibited by new law.

New law is not to be construed to prohibit any transaction related to the final disposition of the bodily remains of the aborted human being in accordance with state law, or to prohibit any conduct permitted that is undertaken for the purpose of providing knowledge solely to the mother for pathological or diagnostic purposes or to provide knowledge solely to law enforcement officers as in the case of autopsy following a feticide.

New law is not to be construed to do any of the following:

(1) To prohibit the donation of bodily remains from a human embryo or fetus whose death was caused by a natural miscarriage or stillbirth, in accordance with the guidelines and prohibitions provided in applicable state and federal law.

(2) To affect existing federal or state law regarding the practice of abortion, or to create or recognize a right to abortion.

Effective August 1, 2016.

(Adds R.S. 14:87.3)

#### **Hate Crimes (Act 184)**

Existing law defines hate crimes as certain enumerated criminal offenses in which the victim is selected because of that person's actual or perceived race, age, gender, color, religion, ancestry, national origin, disability, creed, sexual orientation, or organizational affiliation.

New law adds that a crime shall also be defined as a hate crime if the victim is selected based upon their actual or perceived employment as a law enforcement officer, firefighter, or emergency medical services personnel.

Effective August 1, 2016.

(Amends R.S. 14:107.2)



### **Guns, Bars, and Searches (Act 201)**

Prior law provided that any person entering an alcoholic beverage outlet, by the fact of such entering, is deemed to have consented to a reasonable search of his person for any firearm by a law enforcement officer or other person vested with police power, without the necessity of a warrant. In the case of *Ringe v. Romero*, 624 F. Supp. 417, 418-19, 425 (W.D. La. 1985), the court held that the warrantless search authorized by prior law was unconstitutional. New law repeals statute held unconstitutional.

Effective August 1, 2016.

(Repeals R.S. 14:95.4)

### **Assault of a Peace Officer (Act 225)**

Prior law provided for the crime of aggravated assault upon a peace officer with a firearm.

New law removes the element of the offense specifying that the aggravated assault must be committed with a firearm.

Effective August 1, 2016.

(Amends R.S. 14:2(B)(32) and 37.2 and R.S. 15:642(2)(b))

### **Obstruction of Justice (Act 215)**

New law adds to the crime of obstruction of justice additional grounds, including giving false testimony, withholding testimony, or being absent despite being served with a subpoena.

(Adds R.S. 14:130.1(A)(4))

### **Crossing Police Cordons (Act 268)**

Prior law defined "resisting an officer" as the intentional interference with, opposition or resistance to, or "obstruction of" an individual acting in his official capacity and authorized by law to make a lawful arrest, lawful detention, or seizure of property or to serve any lawful process or court order, when the offender knows or has reason to know that the person arresting,

detaining, seizing property, or serving process is acting in his official capacity.

New law adds that "obstruction of" includes the knowing interference of a police cordon resulting from the intentional crossing or traversing of a police cordon by an unauthorized person or an unmanned aircraft system and includes the airspace above the cordoned area.

New law defines "police cordon" as any impediment or structure erected or established by an officer for crowd or traffic control, or to prevent or obstruct the passage of a person at the scene of a crime or investigation.

Effective August 1, 2016.

(Adds R.S. 14:108(B)(1)(e))

### **Human Trafficking (Act 269)**

New law provides that the crime of human trafficking includes when a person knowingly recruits, harbors, transports, provides, solicits, sells, purchases, receives, isolates, entices, obtains, or maintains the use of a person under the age of 21 years for the purpose of engaging in commercial sexual activity, regardless of whether the person was recruited, etc., through fraud, force, or coercion.

New law provides that it is not a defense to prosecution that the person did not know the age of the victim or that the victim consented to the prohibited activity.

Prior law required persons convicted of human trafficking to register and provide notification as a sex offender if the offense involves a person under the age of 18 years. New law requires registration as a sex offender and notification by those persons convicted of human trafficking whose offense involved a victim who was 18, 19, or 20 years of age.

Effective August 1, 2016.

(Amends R.S. 14:46.2(A)(1) and (B)(2) and R.S. 15:541(2)(o) and (12)(b))

### **Malfeasance and POST Certification (Act 273)**

New law provides for the immediate removal of the Peace Officer Standards and Training (P.O.S.T.) certification of any full-time, part-time, or reserve peace officer upon a conviction of malfeasance in office.

Effective August 1, 2016.

(Adds R.S. 14:134(C)(3) and R.S. 40:2405(J))

### **Underage Possession of Alcohol (Act 354)**

Existing law prohibits the "public possession" of any alcoholic beverage by persons under 21 years of age and defines "public possession" as the possession of any alcoholic beverage for any reason, including consumption, on any street, highway, or waterway or in any public place or any place open to the public, including a club which is de facto open to the public.

New law removes the possibility of jail time, and provides that a citation issued by a law enforcement officer for a violation of the offense of underage possession of an alcoholic beverage shall not be included on the person's criminal history record.

Effective August 1, 2016.

(Amends R.S. 14:93.12(B)(1) and (2))

### **Unlicensed Child Day Care Centers (Act 411)**

New law provides that unlawful operation of an unlicensed child day care center is any of the following:

(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 Dept. of Education that the person operating the facility should seek a license.

(3) The continued operation of a child day care center after the Dept. of Education has revoked a license.

New law provides that the Dept. of Education shall conduct any necessary investigation, determine whether a license is required by present law, and determine if the center is operating without a valid license. Evidence and findings by the Dept. of Education shall be submitted to a law enforcement agency for any arrest.

(Adds R.S. 14:91.15)

### **Homestead Exemption (Act 437)**

New law provides that it is unlawful for someone to intentionally claim more than one homestead exemption.

Effective August 1, 2016.

(Adds R.S. 14:71.4)

### **Organized Retail Theft (Act 328)**

New law adds that "stolen retail property" also includes merchandise credit, including but not limited to a gift card, that is the product of a theft from a retail establishment, e.g. when an offender returns stolen retail property to a retail establishment without a receipt and receives a merchandise credit or gift card.

Effective June 2, 2016.

(Amends R.S. 14:67.25(A)(1) and (4))

### **Firearm-Free Zone (Act 337)**

New law adds that in a firearm-free zone the possession of firearms is prohibited, except as specifically set forth in prior law exceptions.

Prior law provided that signs or other markings are to be located on or near each school and on and in each school bus indicating that such area is a firearm-free zone, and that such zone extends to 1,000 feet from the boundary of school property.

New law adds that these signs or other markings are to include "Law Enforcement Weapons Permitted" or language substantially similar thereto.

Effective August 1, 2016.

(Amends R.S. 14:95.6(A) and (E))

### **Domestic Abuse (Act 452)**

Existing law provides for the crime of domestic abuse battery, and provides criminal penalties for such offense. Prior law included participation in a court-monitored domestic abuse intervention program as part of those penalties. New law requires completion of this program rather than participation in the program.

Effective August 1, 2016.

(Amends R.S. 14:35.3(C), (D), and (H))

### **Underage Gambling (Act 488)**

Present law provides that it is unlawful for any person under 21 years of age to play casino games, gaming devices, or slot machines, or to enter, or be permitted to enter, the designated gaming area of a riverboat, the official gaming establishment, or the designated slot machine gaming area of a pari-mutuel wagering facility that offers live horse racing.

New law clarifies that the prohibition applies to the entire gaming area of an official gaming establishment, but not to the non-gaming areas of the establishment.

Effective August 1, 2016.

(Amends R.S. 14:90.5(B))

### **Gestational Carrier Contracts (Act 494)**

New law provides that a gestational carrier contract is only enforceable if approved by a court before in utero implantation.

New law prohibits a gestational carrier contract for compensation and prohibits a gestational

carrier contract that requires the gestational carrier to consent to terminate a pregnancy if prenatal testing reveals certain disabilities or to reduce multiple fetuses.

New law requires a gestational carrier to be at least 25 years of age, but not more than 35 years of age, and to have already given birth to at least one child at the time the gestational carrier contract is executed.

New law requires the gestational carrier to do agree to or certify various things in a gestational carrier contract.

New law requires the intended parents to agree to various things in a gestational carrier contract.

New law requires the parties to agree on a preliminary estimate of anticipated expenses.

New law allows the parties to the gestational carrier contract to seek court approval of a gestational carrier contract before in utero implantation by initiating a summary proceeding in the court exercising jurisdiction over adoptions where the intended parents or gestational carrier reside.

New law requires the court to order background checks on each of the intended parents, the gestational carrier, and her spouse, if married.

New law requires the court to set a hearing within 60 days of the initiation of a proceeding to approve a gestational carrier contract, and requires the court to issue an Order Preceding Embryo Transfer approving the gestational carrier contract upon finding various facts.

New law provides that the gestational carrier contract and the Order Preceding Embryo Transfer shall remain in full force and effect in accordance with the parties' agreement or until a live birth occurs when there are multiple attempts at in utero implantation.

New law requires all proceedings and court records relative to the gestational carrier contract be held and maintained confidentially.

New law provides for the continuing and exclusive jurisdiction of the court approving a gestational carrier contract for matters relative to a gestational carrier contract.

New law allows the intended parents or the gestational carrier to terminate a gestational carrier contract before in utero implantation by filing notice of termination with the court and serving all parties. New law provides that neither a gestational carrier, nor her spouse, is liable to the intended parents for terminating a gestational carrier contract.

New law prohibits the court from terminating a gestational carrier contract after issuing a valid Order Preceding Embryo Transfer, except for good cause, or after a successful in utero implantation.

New law requires the court to issue an order vacating the Order Preceding Embryo Transfer when a judgment of divorce or judicial declaration of nullity of a marriage between the intended parents is entered before in utero implantation.

New law provides that an intended parent who dies before in utero implantation is considered a parent of a resulting child only when the child is born within three years of the death of the intended parent and the deceased agreed in writing that the deceased would be a parent of the child if the in utero implantation occurred after death.

New law provides that the subsequent marriage of the gestational carrier has no effect on the validity of a gestational carrier contract.

New law requires the intended parents or the gestational carrier to file a motion requesting issuance of a Post-Birth Order upon birth of a child within 300 days of in utero implantation.

New law requires the court to issue a Post-Birth Order, after finding the parties have complied with the requirements of proposed law, which shall contain certain elements.

New law provides for DNA testing when the child is alleged not to be the child of the intended parents.

New law restricts the basis of annulment of a Post-Birth Order to allegations of fraud and duress. New law requires an action to annul be brought within one year from the date of the signing of the final decree or mailing of the notice of judgment, when it is alleged that someone other than the intended parents perpetrated the fraud or duress, or two years from the date of signing if an intended parent is alleged to have perpetrated the fraud or duress.

New law adds any act that is not in compliance with the requirements for gestational carrier contracts, or any act by a person assisting in a genetic gestational carrier contract for compensation, to the enumerated list of actions constituting the crime of sale of minor children.

New law prohibits any person from offering money or anything of value to a woman to consent to an abortion, whether or not she is a party to an enforceable or unenforceable agreement for genetic or gestational carrying. New law applies to those contracts already entered into on the effective date of this Act.

New law establishes a database collection system for information relative to gestational carrier contracts, and provides procedures for the collection of data and confidentiality of the data collected.

(Amends R.S.14:286, R.S. 40:34, and R.S. 44:4.1; adds R.S. 9:2718-2720.15, and R.S. 40:93-96; repeals R.S. 9:2713)

### **Bail Bonds and Declarations of Residence (Act 547)**

New law prohibits any person from knowingly giving or placing on any bail bond or declaration of residence false, nonexistent, or incomplete information for purposes of service or notice.

Effective August 1, 2016.

(Adds R.S. 14:110.1.2)

### **Marijuana Possession (Act 543)**

Existing law provides for certain additional penalties for the use, possession, or control of a firearm while committing a crime of violence, during the sale or distribution of a controlled dangerous substance (CDS), or while in the possession of a CDS.

New law provides that if the unlawful possession is of 14 grams or less of marijuana, these additional penalties shall not apply.

Effective August 1, 2016.

(Amends R.S. 14:95(E))

### **Unmanned Aircraft Surveillance (Act 529)**

Prior law, relative to criminal trespass, provided that no person is allowed to enter upon immovable property owned by another, or remain in or upon property owned by another, without express, legal, or implied authorization.

New law adds that "enter upon immovable property" and "remain in or upon property" include the operation of an unmanned aircraft system 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, except for operating an unmanned aircraft system in compliance with federal law.

Prior law, relative to the crime of unlawful use of an unmanned aircraft system, applied unless it is preempted by applicable federal law or regulations. New law deletes this provision and adds that prior law relative to the crime of unlawful use of an unmanned aircraft system does not apply to any person operating an unmanned aircraft system in compliance with FAA regulations or authorization or engaged in agricultural commercial operations.

Effective upon signature of the governor (June 17, 2016).

(Amends R.S. 14:63(B) and (C) and 337(D))

### **Unmanned Aircraft Surveillance (Act 539)**

New law makes a crime the intentional use of an unmanned aircraft system 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 jail, prison, or other correctional facility.

New law makes a crime the use of an unmanned aircraft system to conduct surveillance of, gather evidence, collect information about, or photographically or electronically record a school or school premises.

New law provides that laws against unmanned aircraft surveillance shall not apply to:

(1) Any person operating an unmanned aircraft vehicle or unmanned aircraft system in compliance with federal law or Federal Aviation Administration authorization or regulations.

(2) An unmanned aircraft system used by the Louisiana Public Service Commission or by a local franchising authority or the Federal Communications Commission under the Cable Television Consumer Protection and Competition Act of 1992, or of a municipal or public utility, while acting in the course and scope of his employment or agency relating to the operation, repair, or maintenance of a facility, servitude, or any property located on the immovable property which belongs to such a business.

(3) The operation of an unmanned aircraft by institutions of higher education conducting research, extension, and teaching programs in association with university sanctioned initiatives.

Effective August 1, 2016.

(Amends R.S. 14:337)

### **Voyeurism with Drones (Act 635)**

Present law provides for the crimes of video voyeurism, voyeurism, and peeping Tom. New

law adds the use of unmanned aircraft systems to each crime.

New law defines an "unmanned aircraft system" as an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

(Amends R.S. 14:283, 283.1, and 284)

#### **Attorney Generals and Guns (Act 541)**

New law adds the current attorney general and retired attorney generals and certain assistant attorneys general to the list of those who can lawfully carry concealed weapons.

(Amends R.S. 14:95(H)(1) and (K))

#### **Theft of Animals (Act 585)**

New law provides that theft of animals is the misappropriation, killing, or taking of any animal which belongs to another, either without consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of the animal or an intent to ransom it for the purpose of extorting money or favor is essential.

New law adds an exception to address killing of dogs that are harassing, wounding, or killing livestock.

Effective August 1, 2016.

(Adds R.S. 14:67.30)

### **TITLE 15: CRIMINAL PROCEDURE**

#### **Commission on Law Enforcement (Act 38)**

Existing law provides for the La. Commission on Law Enforcement and Administration of Criminal Justice.

New law increases the membership from 55 to 58 by adding the chairperson of the Louisiana Legislative Women's Caucus, the chairman of

Senate Judiciary B, and the chairman of the Senate Select Committee on Women and Children, or their designees.

Effective August 1, 2016.

(Amends R.S. 15:1202(A))

#### **Pardon Investigation Fees (Act 52)**

Existing law requires the Dept. of Public Safety and Corrections to provide to the Board of Pardons background information on pardon applicants. New law provides that DPS&C may charge a fee up to \$150 for conducting these investigations.

Effective August 1, 2016.

(Amends R.S. 15:572.5)

#### **Pointe Coupee Sheriff's Office (Act 150)**

Existing law provides for an Offender Reentry Support Pilot Program, created and established within the Pointe Coupee Sheriff's Office. Existing law provides that the sheriff shall submit certain reports. New law requires additional reports.

Effective August 1, 2016.

(Amends R.S. 15:745.2(D))

#### **Parole Supervision Fees (Act 111)**

Existing law authorizes the committee on parole to impose certain conditions or requirements on a person who is released on parole. Prior law provided that persons on parole could be required to pay supervision fees set by the Dept. of Public Safety and Corrections.

New law provides that the supervision fee paid to the Dept. of Public Safety and Corrections shall not exceed \$63 and shall be based on the person's ability to pay.

Effective August 1, 2016.

(Amends R.S. 15:574.4.2(A)(2)(e))

### **Inmate Work Advisory Council (Act 113)**

Existing law provides for an inmate rehabilitation and workforce development program to be administered by the Dept. of Public Safety and Corrections. Existing law provides that the reentry advisory council shall function as an advisory body for DPS&C in administering the program.

New law changes the number of council members from 13 to 22 members and provides that 12 members constitute a quorum. New law provides for the nominating and appointing authority of the additional members.

Effective August 1, 2016.

(Amends R.S. 15:1199.4)

### **Indigent Defendants (Act 224)**

Existing law provides for representation of defendants who are indigent and requires the court to determine indigency.

New law requires the judicial administrator of the La. Supreme Court to develop a form to be used by the court in determining indigency and provides for the contents of the form.

Effective August 1, 2016.

(Adds R.S. 15:175(D))

### **Indigent Defender Costs (Act 239)**

New law extends the collection of the \$45 special cost assessed in criminal cases for the district indigent defender fund, until Aug. 1, 2017.

(Amends R.S. 15:168(B)(1))

### **39th JDC Finances (Act 233)**

New law authorizes the parish governing authority within the 39th JDC to adopt an ordinance, that authorizes the use of surplus funds that exceeds \$50,000 in the juror compensation fund at the end of each calendar

year to be used to defray the expenses of its criminal court system.

New law requires the monies in the criminal court fund of the 39th JDC to be used to defray the expenses of the criminal court system.

Effective August 1, 2016.

(Amends R.S. 15:571.11(A)(1)(a); Adds R.S. 13:3049(B)(1)(e)(vi))

### **Forfeitures of Criminal Bail Bonds (Act 272)**

Prior law provided that all fines and forfeitures, except for forfeitures of criminal bail bonds posted by a commercial security, that are imposed by district courts and district attorneys, are to be paid into the treasury of the parish in which the court is situated and deposited in a special "Criminal Court Fund" account.

New law deletes the prior law exception for forfeitures of criminal bail bonds posted by a commercial security.

Prior law provided that all judgments of bond forfeiture rendered after 6/22/93 resulting from the posting of a commercial surety bond in a criminal proceeding in the state, are to be paid to the prosecuting attorney who will distribute the funds as provided for by prior law. New law deletes the prior law exception for judgments of forfeitures of criminal bail bonds posted by a commercial surety.

Effective August 1, 2016.

(Amends R.S. 15:571.11)

### **Human Trafficking (Act 298)**

New law requires that hotels post information of the National Human Trafficking Hotline in the same location where other employee notices required by law are posted.

Effective August 1, 2016.

(Amends R.S. 15:541.1(A))

**Sex Offenders (Act 267)**

New law prohibits a person registered as a sex offender from engaging in employment as a door-to-door solicitor, peddler, or itinerant vendor to sell any type of goods or services, including magazines or periodicals or subscriptions to magazines or periodicals.

Effective August 1, 2016.

(Amends R.S. 15:553)

**Sex Offender Information (Act 375)**

New law provides that if a sex offender uses a "static internet protocol address", he shall also provide that address to the appropriate law enforcement agency prior to its use.

Existing law prohibits public access to certain information contained in the State Sex Offender and Child Predator Registry, including any telephone numbers, e-mail addresses, online screen names, or other online identities associated with a registering sex offender.

New law authorizes limited disclosure of such information to any person or entity who requests such information for the purpose of identifying or monitoring a registered user associated with the telephone number, e-mail address, online screen name, static internet protocol address, or other online identity. New law prohibits disclosure of such information for any other purpose.

New law prohibits disclosure of the name or other identifying information of the sex offender that is associated with, or who is using, any of the telephone numbers, e-mail addresses, online screen names, static internet protocol addresses, or other online identities in the provided list.

New law provides that the procedure by which such information may be requested by any person or entity shall be prescribed by the Bureau of Criminal Identification and Information.

Effective August 1, 2016.

(Amends R.S. 15:542 and 542.1.5; adds R.S. 15:542.1.5(A)(2)(d))

**Sex Offenders (Act 560)**

New law 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.

Effective August 1, 2016.

(Amends R.S. 15:541(2)(c), (k)-(q) and (25)(n); adds R.S. 15:541(2)(r) and (25)(o))

**Medicaid Fraud and Racketeering (Act 350)**

New law adds Medicaid fraud to the list of activities that constitute "racketeering activity."

Effective upon signature of the governor (June 2, 2016).

(Adds R.S. 15:1352(A)(63))

**Cellular Tracking Devices (Act 308)**

New law creates the crime of unlawful use of a cellular tracking device, with numerous exceptions.

New law provides procedures for law enforcement and investigative officers to obtain warrants from the court to use cellular tracking devices.

(Amends R.S. 15:1302(2) and 1316(C) and (D); adds R.S. 14:222.3 and R.S. 15:1302(3.1) and (16.1), 1316(E), 1317, and 1318)

**Parole Eligibility (Act 469)**

New law provides that a person committed to the Dept. of Public Safety and Corrections is eligible for parole consideration upon serving 15 years in actual custody if various conditions are met.

Effective August 1, 2016.

(Amends R.S. 15:574.4)



### **OMV Records (Act 453)**

New law adds that after initial fingerprints are submitted pursuant to existing law, the arrest and conviction records for the principal of any public license tag agent, auto title company, or any person who works for any such business who will process transactions for the office of motor vehicles shall be monitored in the same manner that the arrest and conviction record is monitored for employees of the office of motor vehicles.

New law adds that after initial fingerprints are submitted pursuant to existing law, the arrest and conviction record for any person who contracts with the office of motor vehicles to handle or process any transaction or inquiry shall be monitored in the same manner that the arrest and conviction record is monitored for employees of the office of motor vehicles.

Effective upon signature of governor (June 9, 2016).

(Amends R.S. 15:587(A)(1)(e)(iv) and (v))

### **Sex Offenders (Act 562)**

New law makes modifications and technical changes to the form used by the court to inform sex offenders of their obligations.

Effective August 1, 2016.

(Amends R.S. 15:543.1)

### **Public Defenders (Act 571)**

New law changes the composition of the Louisiana Public Defender Board (LPDB).

New law provides that the board shall dedicate and disburse at least 65% of the entirety of its annual budget and its funds in the Louisiana Public Defender Fund each fiscal year to the district defender offices and their indigent defender funds in the various judicial districts throughout the state.

New law provides that any funds disbursed to any district defender shall be paid in addition to the minimum mandatory 65% of dedicated and disbursed funds required by new law.

Effective August 1, 2016.

(Amends R.S. 15:146; adds R.S. 15:162(I), 166, and 167(E))

### **Court Costs -- Indigent Defense (Act 581)**

New law deletes certain provisions of prior law that would have reduced court costs payable to indigent defender funds.

Effective upon signature of the governor (June 17, 2016).

(Amends R.S. 15:168(B)(1))

### **Early Learning Centers (Act 646)**

Existing law requires BESE to establish certain requirements and procedures relative to the requesting of criminal history information. Prior law authorized an early learning center's owner or operator to request such information. New law instead requires the state Dept. of Education (DOE) to request such information, authorizes DOE to collect the processing fees charged for state and federal criminal history reports when it receives a request for an employment eligibility determination, and requires DOE to submit these fees timely to the Bureau of Criminal Identification and Information.

Effective when BESE promulgates rules providing for implementation procedures by which DOE shall conduct employment eligibility determinations or on September 30, 2017, whichever is earlier.

(Amends R.S. 15:587.1 and R.S. 17:407.42)

## **TITLE 17: EDUCATION**

### **TOPS (Act 18)**

With respect to the Taylor Opportunity Program for Students (TOPS), new law provides that, beginning with the 2017-2018 award year:

(1) The amount awarded by the state to a student who is the recipient of any TOPS award shall be equal to the award amount established for each respective award at the postsecondary institution in which the student is enrolled for the 2016-2017 award year.

(2) The legislature may, by law, increase the amount awarded at a postsecondary institution in any given award year to a student who is the recipient of any TOPS award.

(3) Any increase in award amounts at a postsecondary institution granted by the legislature shall be established as the minimum amount to be awarded to a student who is the recipient of any TOPS award, subject to any limitations on award amounts otherwise imposed by prior law.

(4) The amount awarded to a student who is the recipient of any TOPS award shall not be less than the amount paid for the previous award year at the postsecondary institution in which the student is enrolled, subject to any limitations on award amounts otherwise imposed by prior law.

(5) The supplemental amounts established in prior law for a recipient of a Performance or Honors award are retained.

Effective upon signature of the governor (May 9, 2016).

(Amends R.S. 17:5002(A), (B) and (D), and 5024(B)(1)(a))

### **Shaken Baby Syndrome Training (Act 81)**

New law provides for requirements for training early learning center employees on recognizing and preventing shaken baby syndrome.

(Adds R.S. 17:407.40(A)(7))

### **Charter Schools (Act 91)**

New law provides for the return of certain charter schools from the Recovery School District (RSD) to the transferring local school system as follows:

(1) New law is only applicable to a school system from which one or more schools were transferred to the RSD from a school district declared to be "academically in crisis" in accordance with prior law.

(2) To the extent new law conflicts with the Charter School Law, the provisions of new law will prevail.

(3) Not later than July 1, 2018, every school transferred to the RSD shall be returned to the jurisdiction of the local school system from which the school was transferred.

(4) Each Type 5 charter returned to the local school system shall be converted to a Type 3B charter with the authority to act as its own local education agency.

(5) The initial term of the charter for a Type 3B charter which was a former Type 5 charter shall be equal to the number of years remaining on the school's prior Type 5 contract.

(6) Each Type 5 charter school returned to the local school system remains subject to any active federal consent judgments or settlement agreements as a Type 3B charter school under the jurisdiction of the local school board.

(7) The RSD shall return all buildings, facilities, and property owned by, or under the control of the RSD, at the time the school is returned to the local school system, but facilities under the control of the RSD under construction pursuant to a federal recovery plan will remain with the RSD until construction is substantially complete. The RSD and the Dept. of Education (DOE) shall continue to operate as the federal grant applicant for such projects.

(8) Any assets acquired by the charter school prior to its return to the local school board remain the property of the charter school.

(9) The RSD shall return all buildings, facilities, and property related to a school which are owned by, or under the control of, the district to the local school system free of any encumbrances, including liens and judgments, other than those to which the local school board is a party.

(10) The local school board shall have no obligation to reimburse the RSD, DOE, or BESE for any maintenance, alterations, or other repairs made to any of a school's buildings, facilities, or property before the school's return to the local school system.

(11) The local school board, and its individual members, are exempt from civil liability for any damages arising from acts, omissions, or incidents occurring during the time the school was under the jurisdiction of the RSD.

(12) The local school board, and its individual members, are exempt from any liability or responsibility asserted by the Federal Emergency Management Agency (FEMA), the U.S. Dept. of Housing and Urban Development, or any other federal or state governmental agency or entity, with respect to construction projects managed by the RSD.

(13) Provides for numerous local school board duties.

(14) Provides for local school superintendent duties.

(15) Prohibits the local school board from impeding the operational autonomy of a charter school under its jurisdiction, as provided in the school's charter, in numerous areas, unless mutually agreed to by both the charter school's governing authority and the local school board.

(16) Specifies that a Type 3B charter school may act as its own local education agency, and allows any charter school under the school board's jurisdiction, with board approval, to act as its

own local educational agency for funding purposes.

(17) Requires each charter school, beginning July 1, 2017, to provide for independent test monitoring from a board approved third-party entity.

(18) Requires the local superintendent to develop a plan to effect the return of schools from the RSD to the local school board.

(19) Requires the local superintendent to consult with the superintendent of the RSD to convene an advisory committee to assist in developing the plan.

(20) Provides that the advisory committee be composed of 13 members.

(21) Requires the local superintendent, after the school board has approved the plan, to return the RSD schools to the local school system, and to convene the advisory committee quarterly and as otherwise deemed necessary, until all schools have been returned to the local school system.

(22) Requires the local superintendent to prepare progress reports regarding implementation of the approved plan to return RSD schools to the local school system.

(23) Provides that the final transfer of schools from the RSD to the local school board may only be postponed under specified circumstances.

Prior law allowed DOE to retain from state MFP funds allocated to a local public school system, an amount equal to one quarter of one percent of the fee amount charged to a Type 3B charter school for administrative costs incurred by the department for financial oversight and monitoring of the school.

New law additionally authorizes DOE to retain such amount for a Type 3B charter acting as its own local education agency and any Type 1, 3, or 4 charter school acting as its own local education agency pursuant to new law.

Prior law provided that the local school board shall remain the local education agency for any Type 1, 3, or 4 charter school. New law exempts charter schools authorized to act as their own local education agency from prior law.

Effective upon signature of the governor.

(Amends R.S. 17:3995(A)(3), (4)(a)(ii), and (I), and 3999; adds R.S. 17:10.7.1, 100.11(I), and 3995(K))

### **BESE Elections (Act 106)**

New law provides that the notification of a vacancy in an elective position on State Board of Elementary and Secondary Education (BESE), 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.

(Amends R.S. 17:1(D); repeals R.S. 17:2)

### **Public Schools and Coaches (Act 149)**

New law authorizes the governing authority of each public school to require that at least one member of the coaching staff of each extracurricular sport offered by the school be certified in cardiopulmonary resuscitation, first aid, and the use of an automated external defibrillator.

(Adds R.S. 17:81(AA))

### **Charter Schools and Public School Boards (Act 121)**

Old law prohibits local school boards from assigning students to attend a charter school. New law exempts from this prohibition a local public school board in a district in which 50% or more of the public schools are charter schools and the district uses a single application and enrollment process for public school enrollment. New law allows such a board to assign students to charter schools based on the preferences of the parents, the charter school's admission requirements and contract, and local school board policies.

Effective August 1, 2016.

(Amends R.S. 17:3991(B)(3))

### **BESE – Educational Leadership Certificates (Act 130)**

New law requires the State Bd. of Elementary and Secondary Education to grant an educational leadership certificate indicating eligibility for employment as a supervisor, director, or coordinator of special education for a public school system to a person who meets specified criteria related to postsecondary educational attainment and work experience in his area of certification.

Effective August 1, 2016.

(Adds R.S. 17:429)

### **OPSB and RSD (Act 151)**

Present law authorizes the Orleans Parish School Board (OPSB) to withhold certain extra amounts from its local revenues that would otherwise be transferred to the Recovery School District. Such authorized withholdings are capped at \$6 million each year. New law changes this cap from \$6 million to \$3 million.

Present law provides that the extra withholdings allowed to OPSB expire upon attainment of certain conditions.

New law changes the termination for such withholdings to the earliest of the following:

(1) If the school board does not change millage rates, upon extinguishment of the obligation for which the excluded revenue was used.

(2) If the school board reduces millage rates below the level in effect for FY 2009-2010, then upon such reduction.

(3) June 30, 2030.

Effective July 1, 2016.

(Amends R.S. 17:1990(C)(2)(a)(iii))

### **Public School Websites (Act 234)**

New law requires that each public school post on its website the number for the child protection toll-free hotline operated by the Dept. of Children and Family Services to receive reports of child abuse and neglect.

(Amends R.S. 17:81(Y) and 3996(B)(35))

### **University Parking (Act 383)**

Prior law provided that the fine which may be imposed for violation of any parking regulation established by the governing authority of any state-supported college or university, including Louisiana State University, where the violation occurred upon the streets and roadways of such college or university, shall not exceed \$1.

Prior law was held unconstitutional in *Student Government Association of Louisiana State University and Agricultural and Mechanical College, Main Campus, Baton Rouge v. Board of Supervisors of Louisiana State University and Agricultural and Mechanical College*, 264 So.2d 916 (La. 1972). New law repeals prior law.

Effective upon signature of the governor (June 5, 2016).

(Repeals R.S. 17:1803)

### **Placement of Students with Exceptionalities (Act 364)**

New law adds that a student with an exceptionality, except a gifted or talented student, shall be assigned to a school as requested by the parent, if specified conditions are met relative to an agreement between local education agencies, a recommendation from licensed physicians who have treated the student, and distance of the school from the student's home. New law exempts certain public school districts.

Effective August 1, 2016.

(Adds R.S. 17:1944(F))

### **TOPS GPA Requirements (Act 388)**

Prior law provided for academic requirements for the Taylor Opportunity Program for Students (TOPS) awards. Prior law provided that for an Opportunity Award, a minimum GPA of 2.50 is required, and that for a Performance Award and an Honors Award, a minimum GPA of 3.00 is required.

New law, for a student who graduates during or after the 2020-2021 school year, retains the 2.50 GPA requirement for the Opportunity Award, but requires a minimum GPA of 3.25 for a Performance Award, and 3.50 for an Honors Award.

Effective upon signature of the governor (June 5, 2016).

(Amends R.S. 17:5024(A))

### **Student ID Cards (Act 401)**

New law requires each public postsecondary management board, except the community and technical college system board, to ensure that student identification cards contain the elements required for voting purposes. New law further requires that the validity of such cards expires within four years of issuance or upon the student's anticipated graduation, whichever occurs first.

Effective January 1, 2019.

(Adds R.S. 17:3351(J))

### **Louisiana Farm to School Program Act (Act 404)**

New law requires the State Board of Elementary and Secondary Education (BESE), in collaboration with the Dept. of Agriculture and Forestry, to develop and implement a farm to school program to be administered by the state Department of Education (DOE).

New law provides that the purpose of the program is to assist schools and school food service personnel to identify and utilize all

available resources to support and increase the use of locally grown or raised agricultural products in school nutrition programs.

Effective upon signature of the governor (June 8, 2016).

(Adds R.S. 17:195.1)

### **Homeless and Foster Youth (Act 306)**

New law requires each public postsecondary education institution to designate a homeless and foster student liaison, within its financial aid office, who is responsible for applying the provisions of the federal Higher Education Act pertaining to these youth and for assisting such students in applying for financial aid and other assistance.

New law authorizes each such institution to:

(a) Grant resident status to a student who resides in La. and is 19 or younger at the time of enrollment, regardless of how long he has resided in the state, if he is determined to have been homeless at any time during the two years immediately preceding enrollment.

(b) If it offers student housing, to develop a plan to provide that current and former homeless and foster youth have access to housing.

Effective August 1, 2016.

(Adds R.S. 17:3399.21-3399.24)

### **Students with Exceptionalities (Act 303)**

New law prohibits public schools, including charter schools, from requiring the parent or legal guardian of a student to disclose medical information or special education needs prior to enrolling the student, unless otherwise specifically required by law. New law allows public schools to provide an enrollment preference to a student with special needs when the student's parent or legal guardian voluntarily provides the school with such information.

New law authorizes certain persons to petition a local school board by December 31, 2017, to determine if the person is eligible to receive a high school diploma. New law requires that the person making the petition be no longer enrolled in a public school but identified as a student with an exceptionality, except a gifted or talented student, and who previously failed to receive a diploma or was denied graduation solely for failing to meet BESE exit exam requirements.

New law requires the department, no later than January 31, 2018, to make a written report to BESE and the legislative education committees on the number of diplomas granted by school district.

Effective upon signature of the governor (June 2, 2016).

(Adds R.S. 17:24.4(F)(5), 154.2, and 3991(E)(6))

### **Proprietary Schools (Act 346)**

Prior law provided exceptions to certain schools or business enterprises under the definitions for proprietary schools.

New law provides an exception that schools or business enterprises which provide students with advanced training techniques for police and service dogs are not proprietary schools.

Effective August 1, 2016.

(Amends R.S. 17:3141.2(5)(p))

### **Public School Board Contracts (Act 347)**

New law requires that any person purporting to enter into any contract on behalf of the school district or schools under the local public school board's jurisdiction, including but not limited to contracts with vendors or contracts of membership in any private or quasi-public entity, must comply with policies and procedures adopted by the local public school board in effect at the time the contract is executed.

New law specifies that it does not apply to any contract in effect on July 31, 2016, but shall apply to any new contract, renewal or extension of an existing contract executed on or after Aug. 1, 2016.

Effective August 1, 2016.

(Adds R.S. 17:81(A)(7))

### **Education Information (Act 485)**

Present law provides that the State Board of Elementary and Secondary Education (BESE) annually publish revenue and expenditure data in an easily understandable format on the Department of Education website. New law requires that the annual report include various additional data.

Present law provides that the Department of Education collect and report on certain student data. New law requires the annual collection and publication of reports on students with exceptionalities.

Effective upon signature of the governor (June 13, 2016).

(Amends R.S. 17:7 and 3911)

### **School Assessment (Act 498)**

Present law provides for the La. Competency-Based Education Program, including the development and implementation of statewide content standards for required subjects and the La. Educational Assessment Program (LEAP) by the state Dept. of Education with approval of the State Bd. of Elementary and Secondary Education (BESE).

New law 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. New law 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.

Effective upon signature of the governor (June 14, 2016).

(Adds R.S. 17:24.4(F)(1)(g))

### **Cursive Writing (Act 482)**

New law requires that cursive writing be taught in all public schools, including charter schools. New law requires schools to ensure that such instruction is introduced by the third grade and incorporated into the curriculum in grades four through 12.

Effective on July 1, 2017.

(Adds R.S. 17:266 and 3996(B)(42))

### **Charter Authorizers (Act 497)**

Prior law defined a "chartering authority", relative to the establishment of charter schools, as a local school board, the State Board of Elementary and Secondary Education (BESE), or a "local charter authorizer".

New law eliminates local charter authorizers from the definition of "chartering authority" and removes the authority of local charter authorizers to enter into charters, thus providing that only local school boards and BESE have this authority.

New law eliminates Type 1B charter schools as a type of charter school in conformity with elimination of local charter authorizers.

New law provides that should BESE certify any local charter authorizer, such certification is null and void.

Effective upon signature of governor (June 14, 2016).

(Amends R.S. 17:3973, 3982, 3983, 3991(H), 3995, 3996(G), and 4001; repeals R.S. 17, 3974(A), 3981.1, and 3981.2)

### **Child Care Assistance Information (Act 473)**

New law provides that applications for assistance and the information contained in the case records of child care assistance clients of the Department of Education (department) shall be confidential and any use of such information not directly connected with the administration of the department programs shall be unlawful.

New law provides that publication of the names of clients or applicants is prohibited except as provided.

New law provides that confidential information may be released to an outside source not directly connected with the administration of the program when written request is submitted and a written waiver by the applicant, client or his legal representative is provided.

New law provides that an authorized person (as defined) shall be provided with the most recent address and place of employment of any absent parent.

New law provides that department information pertaining to financial assistance programs may be released in accordance with federal laws and regulations.

New law provides that certain information shall not be subject to waiver and shall not be released to applicants, recipients, or outside sources, except those outside sources engaged in the administration of the programs of the department.

New law provides that the department may release information to other state agencies that are engaged in rendering services or treatment to a department program recipient or former recipient. New law provides that the agency receiving the information shall be bound by the same confidentiality standard as provided for in new law.

New law provides that client case records shall be admissible in a hearing before the State Civil Service Commission, Equal Employment Opportunity Commission, and any office in the

Louisiana Workforce Commission in its capacity of administering the Louisiana Employment Security Law, wherein the work performance or conduct shall be admissible.

New law provides that names and other identifying data shall be obliterated, except in the case of discipline resulting from allegations made by the guardian, parent, family members, or tutor of the client.

Effective upon signature of the governor (June 13, 2016).

(Adds R.S. 17:407.29)

### **School Employee Salaries (Act 466)**

Existing law requires the governing authority of each local public elementary and secondary school, the state special schools, and the schools and programs administered through the special school district to establish salary schedules for teachers and other school employees.

Existing law prohibits salary reductions in any school year below the amount paid during the previous school year, and prohibits salary reductions during an academic year, subject to exceptions.

New law adds to exceptions the elimination, discontinuance, or reorganization of the position to which the employee is assigned that results in the employee working fewer hours, days, or months. New law provides that in such case, the employee's salary shall not be reduced during an academic year, but after that year, the salary is determined in accordance with the salary schedule established pursuant to existing law.

Effective August 1, 2016.

(Adds R.S. 17:418(C)(3)(d))

### **School Nurses (Act 454)**

Existing law provides for the care of students with diabetes enrolled in public and nonpublic elementary and secondary schools. Existing law provides that the school nurse or an unlicensed



diabetes care assistant shall provide care to a student with diabetes or assist a student with treating and managing his own diabetes.

Existing law defines unlicensed diabetes care assistant as a school employee who volunteers to be trained in accordance with existing law. New law provides that the term also means an employee of an entity that contracts with the school or school system to provide school nurses.

Effective August 1, 2016.

(Amends R.S. 17:436.3(C)(1))

#### **Non-Resident Student Tuition (Act 455)**

Existing law authorizes the public postsecondary education management boards to establish tuition and mandatory attendance fee amounts applicable to nonresident students.

Prior law required that such amounts be at least equal to the average amount of annual tuition and mandatory attendance fees for nonresident students at peer institutions in states that are members of the Southern Regional Education Bd., excluding La., and provided an exception to this requirement for historically black colleges and universities. New law removes this requirement and exception.

Effective August 1, 2016.

(Amends R.S. 17:3351(A)(5)(b)(i))

#### **School System/Charter School Information Sharing (Act 480)**

New law provides that a local public school system and a Type 2 charter school that enrolls students who reside within the geographic boundaries of such system shall enter into a memorandum of understanding (MOU) to exchange information necessary to verify student enrollment and residency status. New law requires the system and school to keep this information confidential and to use it only for the purpose of verifying student enrollment and residency.

Effective upon signature of the governor (June 13, 2016).

(Adds R.S. 17:3914(L))

#### **TOPS (Act 503)**

Prior law provided for the Taylor Opportunity Program for Students (TOPS).

Prior law provided, if the legislature appropriates insufficient money to fund all awards, for reducing the number of students by eliminating students based on ACT score and the ability of families to pay tuition.

New law, instead of providing for the elimination, requires the reduction of award amounts on a pro rata basis; also applies this reduction to stipends granted for certain awards. New law authorizes public postsecondary education institutions to charge a student the difference between the award amount and tuition amount, unless the student is granted a tuition waiver.

New law provides that a student whose award is reduced not be required to accept payment of his award or to enroll or maintain continuous enrollment in an eligible college or university during the time period for which there is a funding shortfall and may defer acceptance of his award benefits. New law provides that upon the deferment, the student shall:

- (1) Be eligible, upon enrollment or re-enrollment, to receive all applicable award benefits for any remaining semester or semesters, or the equivalent thereof, of his unused eligibility.
- (2) Meet all academic and other eligibility requirements, except as otherwise provided in new law.
- (3) Exhaust all unused award eligibility within five years of his initial reduction, unless granted an exception for cause.

New law does not apply to students receiving TOPS-Tech Early Start Awards.

Effective upon signature of governor (June 14, 2016).

(Amends R.S. 17:5065(D))

### **Sale of an LSU Hospital (Act 537)**

New law provides that in the event the LSU Board of Supervisors determines it is in the best interest of the state, the legislature has authorized the closure of a hospital, and the building is no longer being utilized for the provision of health care services, or receives an inquiry from a financially viable party regarding the purchase of a hospital listed in prior law, the board shall notify the commissioner of administration within five business days that it is contemplating the option of selling the property or is in receipt of such an inquiry.

New law provides that the board shall participate in and cooperate with the commissioner in reviewing the benefits and consequences of selling the property.

New law provides that the commissioner shall obtain fair market value appraisals from up to three Louisiana certified appraisers to ascertain the current value of the property. A report of such information and the recommendations of the board and the commissioner shall be submitted to the Joint Legislative Committee on the Budget (committee) immediately upon its completion.

If the board's request for preliminary authorization to pursue the sale of the property is approved by the committee, it shall be submitted to the legislature for approval by a majority vote of the elected members of each house of the legislature.

New law further provides that, upon receipt of the approval by the committee and legislature to proceed with the exploration of the sale of the property, the board shall work with the commissioner to develop a solicitation for offers to sell the property, fixing the minimum price and terms of sale to be made with reference to the property, within the parameters approved by the committee and the legislature. The board

shall advertise the solicitation for offers in various ways for 45 days. During this period, the board and the commissioner shall resolve any outstanding contractual or operational issues with other parties that may affect the sale of the property.

New law provides that the board and the commissioner shall review the offers and negotiate with the respondents for a period of no less than 30 days. If the board and commissioner agree that an acceptable offer has been received, then the board shall submit the proposed agreement to the committee for its review and approval. The agreement shall be within the preliminary parameters approved by the committee and the legislature. The committee shall consider the proposed agreement not less than thirty days after submission of the agreement.

New law provides that it shall terminate as of December 31, 2019.

Effective upon signature of the governor (June 17, 2016).

(Adds R.S. 17:1519.2(C))

### **Public School – Physical Restraint (Act 522)**

Prior law defined "physical restraint" as bodily force used to limit a person's movement, but provided that it does not include holding a student by a school employee for less than five minutes in any given hour or class period for the protection of the student or others. New law deletes this exclusion, but adds provision 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.

Prior law provided that if a student is involved in five incidents involving seclusion or physical restraint in a school year, the student's Individualized Education Plan team must review and revise the student's intervention plan. New law adds that after five such incidents, if the student's challenging behavior continues or escalates, requiring repeated use of seclusion or

physical restraint, the special education director or his designee shall review the student's plans every three weeks.

New law requires BESE 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.

Prior law required each public school governing authority to adopt guidelines and procedures regarding the use of seclusion and physical restraint of students with exceptionalities and provide such guidelines to all school employees and parents of students with exceptionalities. New law additionally requires that each school governing authority submit such guidelines and procedures to the state Dept. of Education (DOE) and post them at each school on each school system's website.

Prior law required a school employee who has placed a student in seclusion or has physically restrained a student to document and report each incident. Prior law required that such documentation compiled for students whose challenging behavior continues or escalates be reviewed at least once every three weeks. New law deletes the requirement for review at least once every three weeks.

Prior law required school governing authorities to report all instances of the use of seclusion or physical restraint to DOE and required the department to maintain a database of all such reported incidents and disaggregate the data by specified data elements. New law additionally requires the department to annually compile a comprehensive report regarding the use of seclusion and physical restraint of students with exceptionalities and to post a copy of the report on its website.

New law creates the Advisory Council on Student Behavior and Discipline to provide advice and guidance to BESE and the DOE regarding best practices in providing support to public school governing authorities in the

adoption and implementation of school student behavior and discipline plans.

Effective upon signature of the governor (June 13, 2016).

(Amends R.S. 17:252 and 416.21; adds R.S. 17:253)

### **Expecting and Parenting Students (Act 523)**

New law establishes the Louisiana Expectant and Parenting Students Act to recognize existing Federal Title IX obligations and policy provisions that shall be adopted by governing authorities of public secondary schools with respect to such students.

Effective August 1, 2016.

(Adds R.S. 17:221.7 and 3996(B)(42))

### **Nonprofit Corporation that Supports Public Colleges (Act 511)**

Existing law provides that a nonprofit corporation that has as its principal purpose the support of public institutions of higher education, and that meets certain criteria is a private entity and not a public or quasi public corporation or an administrative unit, public servant, employee, or agent of any institution of higher education.

Existing law authorizes the Bd. of Supervisors of Community and Technical Colleges (LCTCS board), operating through a nonprofit corporation established for the purpose, to incur debt to finance specific capital projects at specified amounts. Existing law requires that the construction projects provided for in existing law be managed and administered by a nonprofit corporation established for such purposes.

With respect to projects managed and administered by the nonprofit corporation, new law:

(1) Requires that the corporation disclose certain information on the LCTCS board's website.

(2) Provides that the president of the LCTCS or his designee shall be provided reasonable notice of and all materials relating to and be allowed to participate in all meetings of the corporation's board of directors, and any committee thereof charged with the procurement, management, or oversight for a project.

(3)(a) Requires disclosures by corporation board members and their family members to the Bd. of Ethics.

(b) Requires the corporation to adopt a policy on conflicts of interest meeting specified requirements.

(4) Requires a public meeting in accordance with Open Meetings Law prior to beginning any project in excess of \$50,000 of total installed cost and requires consideration of public input.

(5) Requires the corporation to issue a request for qualifications or request for proposals to select contractors for any project in excess of \$50,000 of total installed cost and that the procedures for issuing such requests be consistent with procurement through competitive sealed bid or competitive negotiation.

(6) Requires interested contractors to include in their responses to the request for qualifications package financial disclosure statements.

(7) Provides that the corporation or an advisory committee authorized by a cooperative endeavor agreement with the state shall evaluate and grade all responses to the request for qualifications or proposals. The corporation must publicize its selection criteria and is not required to select the lowest cost submission.

(8) Provides for notification to successful and unsuccessful bidders; requires the corporation to make available for inspection, by any proposing party, scoring sheets or other materials utilized in selecting the contractor; and provides for the availability of proposals and contracts for public inspection, but allows for protection of specified information from disclosure.

(9) Requires the corporation to review, monitor, and report on the ongoing status of projects and on contractor performance.

(10) Authorizes maintaining public records in an electronic format.

New law is applicable to projects that are administered by the nonprofit corporation and that commence on or after July 1, 2016.

Effective upon signature of governor (June 16, 2016).

(Amends R.S. 17:3394.3(A)(4))

### **Teacher and Administrator Evaluations (Act 504)**

Prior law, relative to the evaluation of public school teachers and administrators, required that 50% of evaluations be based on evidence of growth in student achievement using a value-added assessment model for grade levels and subjects for which value-added data is available.

New law instead requires that 50% of teacher and administrator evaluations be based on evidence of growth in student achievement as determined by the state board. New law 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.

Effective upon signature of the governor (June 14, 2016).

(Amends R.S. 17:3902(B)(5) and 3997(D)(2))

### **State Organization (Act 557)**

Proposed law requires that on an annual basis, 21 departments, boards, and commissions of the state shall provide the following information to the legislature:

(1) A full organizational chart for the department, board, or commission, which is current as of the date of submission and which

shows each staff position, whether filled or vacant, that comprises the organization.

(2) The current salary of the person occupying each filled position shown on the organizational chart.

(Amends R.S. 17:7(22); adds R.S. 17:7(33) and R.S. 36:104(A)(15), 154(A)(9), 204(A)(9), 234(A)(14), 254(A)(15), 304(A)(9), 354(A)(18), 404(A)(10), 454(A)(9), 474(A)(13), 504(A)(10), 605(A)(9), 624(A)(9), 645(A)(9), 682(B)(8), 702(8), 722(8), 742(10), 764(A)(8), and 784(A)(9))

### **Public College Facility Management (Act 558)**

New law requires each public postsecondary education management board to adopt a policy requiring its institutions to develop plans for full use of existing facilities, including plans for distance learning, and to annually report information on use of classroom and laboratory facilities. The report shall be submitted to the appropriate board and posted on the institution's website.

New law requires each board, prior to submission of a request for capital outlay funds exceeding \$10 million in state funds for new facilities, to hold a public hearing on the proposed facility.

Effective August 1, 2016.

(Adds R.S. 17:3351(J))

### **Health Education Authority (Act 577)**

Prior law provided that the Health Education Authority of Louisiana ("HEAL" or the "authority") shall operate a cooperative and coordinated multi-institutional complex to attract medical services within a functional geographic relationship to the complex. New law repeals references in prior law to the complex and proximity to the complex.

New law changes composition of and quorum for HEAL.

Prior law established a cap for bond issuance by HEAL in the amount of \$400 million. New law increases the cap to \$800 million.

Prior law established that no bonds of the authority shall be issued or sold by the State Bond Commission without the prior approval of the secretary of the Department of Health and Hospitals (DHH). New law revises prior law to provide that no bonds of the authority shall be issued or sold by the authority without prior approval of the State Bond Commission.

Prior law required formulation of a general master plan for development of the original complex. New law repeals prior law.

Prior law placed HEAL within the DHH office of management and finance. New law transfers HEAL to the Department of Education.

Prior law required DHH to staff HEAL to carry out policies and administer the functions of the authority. New law repeals prior law.

Effective August 1, 2016.

(Amends R.S. 17:3051, 3052, 3053, 3054(A), 3055, 3056, and 3058; adds R.S. 17:3053.1 and R.S. 36:651(D)(10); repeals R.S. 36:259(B) and 804)

### **ABLE Account Savings Program (Act 604)**

Existing law, known as the "Louisiana ABLE Act," establishes a governance framework and broad guidelines for a state ABLE account savings program (the "program") for persons with disabilities.

Prior law authorized the ABLE Account Authority to administer the program. New law transfers these responsibilities to the La. Tuition Trust Authority (LATTa) and, while retaining the membership of the ABLE Account Authority, changes its name to the ABLE Account Advisory Council.

Effective August 1, 2016.

(Adds R.S. 17:3081-3089 and R.S. 36:651(G)(5); repeals R.S. 17:3093.1, R.S. 36:651(T)(6) and 802.24, and R.S. 46:1721-1730)

#### **Board of Regents (Act 619)**

New law requires the Bd. of Regents to conduct a comprehensive review of the state's present postsecondary education system and recommend the optimal delivery of postsecondary education in the future that will meet the needs of the state's citizens and industries while maximizing the state's resources.

New law requires the Dept. of Economic Development, the La. Workforce Commission, and each public postsecondary institution, management board, and system to fully cooperate with Regents and provide data and assistance as requested.

New law is effective upon signature of the governor (June 17, 2016) except that repeal of prior law is repealed on July 1, 2017.

(Adds R.S. 17:3140; repeals R.S. 17:3140)

#### **Personal Finances Courses (Act 624)**

Prior law authorized public elementary or secondary schools to offer instruction in personal financial management. New law requires, rather than authorizes, public elementary or secondary schools to offer such instruction.

Effective August 1, 2016.

(Amends R.S. 17:282.3(B)(1))

#### **Early Learning Centers (Act 659)**

Existing law provides for penalties for persons who operate an early learning center without a valid license issued by the state Dept. of Education.

Prior law provided that \$1,000 for each day of such offense was the minimum fine. New law

provides that \$1,000 per day is the maximum fine.

Effective August 1, 2016.

(Amends R.S. 17:407.37)

#### **Pilot School for At-Risk Students (Act 672)**

New law establishes an independent, residential, public school (Thrive Academy) in Baton Rouge as a pilot school for certain at-risk students in grades six through 12.

New law provides for a board of directors for the school and provides for its membership, terms, powers, and duties.

New law provides that the school shall 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 the State Bd. of Elementary and Secondary Education and the school shall also be eligible to receive other funding appropriated by the legislature.

Effective July 1, 2017, except that new law relative to the creation and functions of the board of directors is effective October 1, 2016.

(Adds R.S. 17:1971-1976 and R.S. 36:651(D)(9))

### **TITLE 18: LOUISIANA ELECTION CODE**

#### **Voting Registration (Act 183)**

Present law generally requires the registrar to close the registration records 30 days prior to an election, unless the deadline falls on a legal holiday, in which case the deadline is moved to the next day that is not a holiday. Provides that the registration records may be closed at a later time under certain circumstances involving emergencies.

New law 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 pursuant to present law to register to vote or make changes to an existing registration and who has been informed pursuant to present law that his application has been electronically forwarded to the appropriate registrar of voters.

New law requires the registrar to supplement the official list of voters in the precinct register with the names and collateral information for registrants who registered pursuant to new law and who were verified after the printing or delivery of the precinct register.

Effective February 1, 2017.

(Amends R.S. 18:101(D)(intro. para.) and 152(C)(2)(b); adds R.S. 18:135(A)(3))

### **Election Procedures (Act 281)**

New law authorizes the secretary of state to develop and implement a pilot program for new voting technology and equipment.

New law changes the composition of the State Bd. of Election Supervisors and its quorum requirement.

New law requires a parish registrar of voters to file a formal notice of retirement or resignation with the secretary of state.

New law provides that the secretary of state shall immediately transmit a copy of the notice to the governing authority for the parish of the registrar who filed the notice. New law provides that a notice of retirement or resignation shall not be effective until received by the secretary of state and shall become irrevocable upon such receipt.

Prior law provided that in addition to the proof otherwise required by existing law, an applicant of foreign birth who has been naturalized was required to prove that he was legally naturalized under the laws of the U.S., and a person who claimed to be a citizen of the U.S. other than by birth or naturalization was required to prove such citizenship. New law repeals prior law.

Prior law required voter registration application forms to be distributed only to applicants who were qualified to register. New law repeals prior law.

New law adds to the list of public assistance agencies where voter registration services must be provided the Kinship Care Subsidy Program (KCSP) and the Child Care Assistance Program (CCAP). New law specifies that services at armed services recruitment offices shall be provided according to the procedures established by the Federal Voting Assistance Program.

Existing law requires a form to accompany each mail voter registration application that is distributed. New law requires the form to include interference with the person's right to choose his own political party or other political preference as causes for a complaint.

Existing law provides a challenge procedure to be used by the registrar of voters when he has reason to believe that a registrant no longer is qualified to be registered, or that a registrant has changed his residence. Existing law requires the registrar to send the person an address confirmation card. Prior law provided that if the voter responded to the address confirmation card and had moved to a different parish, the registrar cancelled the voter's registration. New law instead requires the registrar to transfer the voter's registration information to the voter's new parish of residence.

Old law provided qualifications for a person to serve as a commissioner, including being a qualified voter, not being a candidate in the election, (subject to certain exceptions) having completed certain training, and not being entitled to assistance in voting. New law repeals prior law, and provides instead that the person must be able to perform the essential duties of a commissioner or commissioner-in-charge as described in the informational pamphlet developed by the secretary of state.

New law provides that a qualified voter of La. or a person who is registered to vote in another state who is able to perform the essential duties of a commissioner, who is not a candidate in the

election, and who is a student at an institution of higher learning located in this state may be selected as a commissioner in any precinct in the parish where the institution of higher learning is located, if the student submits to the clerk a copy of his student identification or fee bill showing current enrollment and a copy of his proof of voter registration.

Existing law provides that at the first meeting of the parish executive committee of a recognized political party, the newly-elected members of the committee shall elect the officers provided for by the rules and regulations of the state central committee of that political party. New law requires the chairman of each parish executive committee to submit the name of each officer to the secretary of state within five business days of election and to submit any change in the officers to the secretary of state within five business days of the change.

Prior law provided that if the execution of the certificate accompanying a notice of candidacy was witnessed by two persons, the two persons must have been registered to vote for the office that the candidate sought. New law repeals prior law.

New law removes obsolete references to refunds of qualifying fees and a related escrow account in provisions of existing law relative to the delivery of such fees to the state treasury.

Existing law provides a period of time prior to an election during which no precinct may be established or changed in any way, ending on the date of the general election. Prior law provided that the period commenced on the fifth business day prior to the date the qualifying period opened. New law provides instead that the period commences on the tenth business day prior to the date the qualifying period opens.

Existing law provides that no change to a precinct or annexation that is made prior to the commencement of this period shall become effective for the election unless certain required information is submitted to and received by the secretary of state. Prior law specified that the information must have been received by the

secretary of state prior to the day the period commenced. New law provides that the information must be received prior to 4:30 p.m. on the day the period commences.

Existing law provides procedures for the filling of anticipated vacancies for elected offices. New law adds that an anticipated vacancy shall become certain when a person elected to office is disqualified by a court of competent jurisdiction.

Existing law provides relative to bond, debt, and tax elections and elections at which a proposition is to be submitted to the voters, and requires notice of such an election to be provided to the secretary of state. Prior law provided that if the election was to have been held on a primary election date, the notice must have been received by the 46th day prior to the election. New law requires the notice to be received by the 54th day prior to the election instead of the 46th day.

Existing law provides for voting absentee by mail. Existing law requires the ballots to include instructions printed on their face to inform the voter of how to mark the ballot. New law requires that the instructions inform the voter concerning how to change or correct his vote on the ballot before it is cast and counted, including through the use of a replacement ballot if necessary.

Existing law provides procedures for casting a vote in person using a paper ballot. New law provides procedures for using a replacement ballot to cast a vote in person. New law provides that if a voter determines that his ballot is spoiled because he wants to change or correct his vote on the ballot before it is cast and counted but is unable to do so, he may obtain a replacement ballot upon returning the spoiled ballot to the appropriate election official.

Existing law provides procedures for casting a vote using an absentee by mail ballot. New law provides that if a voter determines that his ballot is spoiled because he wants to change or correct his vote on the ballot before it is cast and counted but is unable to do so, he may obtain a



replacement ballot from the registrar of voters in his parish. New law provides that the voter shall not return the spoiled ballot to the registrar, but shall destroy it. New law provides that if the voter sends both the spoiled ballot and the replacement ballot to the registrar, each of such ballots shall be void.

Existing law provides for the content of absentee by mail applications. New law provides that if an application is sent by facsimile, the person sending the application by facsimile shall sign the application to indicate that he is the sender and shall include the facsimile number from where the facsimile was sent. However, new law does not apply to an application by a person who is entitled to vote pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).

Existing law additionally provides that no person except the immediate family member of a voter may hand deliver more than one voter's application to vote by mail to the registrar. New law applies this limitation to applications sent by facsimile. However, new law does not apply to an application by a person who is entitled to vote pursuant to UOCAVA.

Prior law required a request for recount of absentee by mail and early voting ballots to be filed with the clerk of court no later than the last working day prior to the date of the recount. New law requires the request for recount to be filed by 4:30 p.m. on the last working day prior to the date of the recount.

Existing law provides that the parish board of election supervisors is responsible for counting and tabulation of absentee by mail and early voting ballots. New law adds that if a voter sends two or more absentee by mail ballots for the same election in the same envelope, the parish board shall reject all such ballots.

Effective upon signature of governor (May 27, 2016); except that provisions relative to changes to challenge and cancellation of registration, the deadline for notice of election, replacement ballots, and instructions on absentee by mail ballots become effective on January 1, 2017.

(Amends R.S. 18:18, 23, 116, 193, 424, 425, 444, 463, 470, 532.1, 563, 583, 1285, 1300, 1306, 1307, and 1313; adds R.S. 18, 1309(E)(5)(b)(iii), and 1310(D); repeals R.S. 18:105(B) and (C))

#### **Registrar of Voters – Appointment (Act 360)**

New law provides for the manner of appointment of the registrar of voters for each parish. New law requires the parish governing authority to take all reasonable steps to make as many people in the parish as possible aware of the upcoming appointment of a registrar. New law requires the governing authority to offer to interview each applicant who meets the qualifications provided by law.

New law provides requirements for the issuance of the commission. New law requires the governing authority to submit documentation to the governor indicating that it has complied with new law.

Effective if and when the proposed amendment of Article XI of the Constitution of La. contained in Act No. 677 of the 2016 R.S. is approved at a statewide election and becomes effective.

(Amends R.S. 18:51; Adds R.S. 18:51.1)

#### **Registrar of Voters – Evaluation (Act 358)**

New law provides that a registrar of voters may appeal the finding on a merit evaluation to the State Bd. of Election Supervisors in accordance with rules promulgated by the board. New law provides that 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.

Effective August 1, 2016; applies to evaluations conducted in 2017 and thereafter.

(Amends R.S. 18:55(A)(4)(b); adds R.S. 18:24(A)(6))

### **Registrar of Voters Qualifications (Act 414)**

New law requires each applicant for registrar of voters to be a registered voter. If appointed to fill the office of registrar of voters, new law requires the applicant to become a resident and registered voter of the parish in which he is to perform his duties prior to taking the oath of office.

New law requires the registrar to possess at least one of the following at the time of appointment:

- (1) A baccalaureate degree and three years of full-time, professional work experience.
- (2) Nine years of full-time, professional work experience.
- (3) Six years of full-time employment in a registrar's office in La.

New law provides that for purposes of new law, "professional work experience" means experience in an occupation which requires specialized and theoretical knowledge usually acquired through college training or through work experience and other training which provides comparable knowledge.

New law does not apply to a registrar appointed prior to the effective date of new law.

Effective if and when the proposed amendment of Article XI of the Constitution of La. contained in Act No. 677 of the 2016 R.S. is adopted at a statewide election and becomes effective.

(Amends R.S. 18:52)

### **Campaign Funds and Trailers (Act 450)**

Existing law prohibits a candidate, political committee, or other person required to file reports pursuant to the Campaign Finance Disclosure Act from using a contribution, loan, or transfer of funds received by such candidate or committee or person to purchase immovable property or a motor vehicle.

New law specifically excludes "trailers" from the meaning of "motor vehicle" relative to the prohibition on the use of campaign funds.

Effective August 1, 2016.

(Amends R.S. 18:1505.2(I)(6))

### **Absentee Voting by Mail (Act 508)**

New law requires the registrar to transmit absentee by mail voting materials electronically to a voter who is eligible to vote absentee by mail pursuant to existing law and who is unable to vote an absentee by mail ballot without assistance because of a disability. New law requires the voter to return executed materials to the registrar by facsimile or any means authorized by existing law.

Prior law made these procedures for voting absentee by mail applicable only to a member of the U.S. Service or a person residing outside the U.S. who is registered to vote. New law provides that the procedures apply generally to the use of absentee by mail voting materials transmitted electronically pursuant to existing law and new law. New law adds that the voter must first mark each ballot, either by marking the ballot electronically and then printing it, or by printing the ballot first and then marking it by hand.

Effective January 1, 2017.

(Amends R.S. 18:1310(A)(2); adds R.S. 18:1308(A)(1)(d))

### **Redistricting Plan Files (Act 623)**

New law requires a local governing body that utilizes a geographic information system to develop its redistricting plan to submit an electronic shapefile which reflects its redistricting plan to the secretary of state within 10 business days of adoption of the plan.

If a local governing body is unable to submit an electronic shapefile, new law requires the local governing body to submit an ASCII, comma delimited block equivalency import file, which indicates the census block assignments in

accordance with its redistricting plan, to the secretary of state within 10 business days of adoption.

New law provides that "local governing body" includes each parish governing authority, municipal governing authority, and school board.

New law provides that each local governing body shall, to the extent practicable, transmit to the secretary of state, in the manner prescribed by new law, each redistricting plan which is in effect on the effective date of new law no later than Jan. 1, 2017.

Effective August 1, 2016.

(Adds R.S. 18:1945)

#### **Deputy Parish Custodians of Voting Machines (Act 626)**

Prior law provided that a deputy parish custodian of voting machines was to be paid \$75 for each election at which he served. New law increases this amount to \$100 for each election.

Effective August 1, 2016.

(Amends R.S. 18:1354(C))

### **TITLE 19: EXPROPRIATION**

#### **Expropriation (Act 108)**

Present law provides procedures for expropriation by expropriating authorities, including 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.

New law 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.

New law specifies that the required notice shall be made not more than 30 days after making an offer to acquire an interest in the property.

New law authorizes the expropriating authority to either identify the website where the statutes can be read or provide a copy of the statutes.

Effective January 1, 2017.

(Amends R.S. 19:2.2)

### **TITLE 22: INSURANCE**

#### **Discount Medical Plan Organizations (Act 3)**

New law, with respect to the application for registration as a discount medical plan organization with the commissioner of insurance, allows a discount medical plan organization not domiciled in this state to appoint a La. statutory agent for service of process rather than the insurance commissioner.

(Amends R.S. 22:1260.4(B)(10))

#### **Insurance Fraud (Act 4)**

New law provides that a "fraudulent insurance act" shall include presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to the Property Insurance Association of Louisiana, any written statement that the actor knows to contain materially false information in connection with the grading of a municipality or fire district by such association.

Effective August 1, 2016.

(Adds R.S. 22:1923(2)(n))

#### **Citation Correction (Act 6)**

Old law, the Insurance Code, contains certain incorrect citations to definitions of the terms "control" and "person". New law corrects these citations.

Effective August 1, 2016.

(Amends R.S. 22:236(4), 237.2(4), 524(3), 528(2), 552(2), 1641(4), and 1981(A)(3))

### **Insurance Records (Act 30)**

Existing law allows certain records of domestic and redomesticated insurers to be maintained by being photographed or reproduced on film. New law adds maintaining these records electronically in electronic data processing equipment to the methods of maintenance.

Prior law required that a plan adopted by an insurer's board of directors for keeping and maintaining original records outside of Louisiana be approved by the commissioner of insurance. New law requires only that the plan be filed with the commissioner of insurance.

Effective August 1, 2016.

(Amends R.S. 22:68(A) and (B))

### **Health Insurance (Act 32)**

Present law, relative to assuring portability, availability, and renewability of health insurance coverage, defines an "employer" as any person acting directly as an employer, or indirectly in the interest of an employer, in relation to an employee benefit plan, and includes a group or association of employers acting for an employer in such capacity.

New law adds that, at the option of a health insurance issuer (health insurer), such issuer may require that a majority of the employees covered under an employee benefit plan be employed or reside in this state, and that there be a bona fide employer-employee relationship, to prevent the formation of employer groups primarily for the purposes of buying health insurance.

Present law, relative to assuring portability, availability, and renewability of health insurance coverage, defines a "small employer", in connection with a group health plan during a calendar year and a plan year, as an employer who employed an average of at least two but not more than 50 employees on business days during

the preceding calendar year and who employs at least two employees on the first day of the plan year. New law reduces "two" to "one" in both places.

Present law, relative to review of rates of health insurance issuers (health insurers), defines a "large group" or "large employer", in connection with a group health plan with respect to a calendar year and a plan year, as an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year, and beginning on Jan. 1, 2016, an employer who employed an average of at least 101 employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year. Present law further defines a "small group" or "small employer" as any person, firm, corporation, partnership, trust, or association actively engaged in business which has employed an average of at least one but not more than 50 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year, and beginning on Jan. 1, 2016, an employer who employed an average of at least one but not more than 100 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year. New law deletes the provisions changing the definitions of "large group", "large employer", "small group", and "small employer" beginning on Jan. 1, 2016.

(Amends R.S. 22:1061(5)(e) and 1091(B))

### **Diversity and Opportunity (Act 43)**

Present law creates a division of diversity and opportunity within the Dept. of Insurance and provides for its powers and functions, including authorizing it to conduct a survey of insurance companies doing business in this state in order to seek information and data relative to the policies and practices of hiring of and contracting with minorities.

New law provides that all entities authorized or licensed pursuant to the La. Insurance Code may be included in the survey. New law charges the division with developing programs to address the needs and concerns of minority and women producers in the state, which programs may provide training for producers in all areas of agency management and training and education for personnel.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 22:31(B) and 32)

#### **Domestic Insurers – Investments in Foreign Securities (Act 50)**

New law authorizes domestic insurers to invest in additional securities of foreign nations subject to the following requirements and restrictions:

(1) The securities shall not be in default, shall be issued in the U.S. Market, and shall be denominated in U.S. dollars.

(2) The securities shall be the direct legal obligation of a foreign nation that is a member of the Organisation for Economic Co-operation and Development, for which investments in or business transactions with are not prohibited or restricted by any law, regulation, or rule of the U.S. or this state.

(3) The full faith and credit of the foreign nation shall have been pledged for the payment of principal and interest of its securities and the foreign nation has not defaulted and has met its payment obligations in a timely manner on all similar obligations for a period of at least the immediately preceding 25 years.

(4) The debt of the issuing country shall be rated at least A- or better by Standard & Poor's Corporation or A3 or better by Moody's, Inc. or an equivalent investment grade by a securities ratings organization accepted by the National Association of Insurance Commissioners.

(5) The total investment of the insurer in such foreign securities at any one time shall not exceed 5% of an insurer's admitted assets.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 22:589(D))

#### **Early Voting (Act 83)**

New law provides that one day of early voting is added to the early voting period provided in present law if one or more holidays occurs on a weekday during that period. New law provides that the additional day is the first day preceding the period described in present law that is not a Sunday or a holiday.

(Amends R.S. 18:1302(4) and 1309(A)(1))

#### **Genetic Information (Act 58)**

New law provides that the requirements of existing law for use of genetic information by health insurers shall not apply to genetic information obtained:

(1) For treatment, payment, and healthcare operations by an insurer consistent with the federal Health Insurance Portability and Accountability Act (HIPAA) and its related regulations.

(2) For maintenance of information by an insurer in accordance with record retention requirements.

Effective August 1, 2016.

(Adds R.S. 22:1023(D)(8) and (9))

#### **Group Health Plans (Act 68)**

Prior law required a group health plan, and a health insurance issuer offering group health coverage, to provide certification of the period of creditable coverage at various times, including when an individual ceases to be covered under the plan or under a COBRA (Consolidated Omnibus Budget Reconciliation

Act) continuation provision, pursuant to the federal HIPAA (Health Insurance Portability and Accountability Act) law.

New law instead requires that such certification of creditable coverage be sent no more than 20 days after it is requested by an individual who ceases to be covered under the issuer's policy or plan.

Effective May 10, 2016.

(Amends R.S. 22:1062(D)(1))

### **Health Insurer/Producer Contracts (Act 56)**

New law provides that a material change made by a health insurance issuer to the terms and conditions of a contract between such issuer and a producer shall not become effective until the issuer has delivered written or electronic notice to the producer at least 90 days prior to the effective date of the change.

New law shall not apply when the change to the contract is mutually agreed upon by the health insurance issuer and the producer or when the change to the contract is required by state or federal law.

New law defines a "material change" as a change made to a provision of the contract affecting: commissions, bonuses, and incentives paid to the producer; right of survivorship; indemnification of the producer by the health insurance issuer; and errors and omissions coverage requirements for the producer.

Effective August 1, 2016.

(Adds R.S. 22:1569)

### **Insurance Producer Education (Act 72)**

Prior law provided an exemption from continuing education requirements for licensed insurance producers who are 65 years or older on January 1, 2012, and who have at least 15 years of experience as a licensed producer and meet certain other requirements. New law deletes the January 1, 2012, deadline.

Existing law provides that a producer may qualify for the age 65 exemption if he is actively engaged in the insurance business as a producer and represents or operates through a licensed insurance insurer. New law adds that the producer may also operate through a licensed La. insurance agency.

Effective upon signature of governor (May 10, 2016).

(Amends R.S. 22:1573(I)(1)(intro. para.) and (b))

### **Health Insurer Remittances to Pharmacies (Act 51)**

New law requires a health insurer to send a remittance advice to a pharmacy on the date of payment and include the network identifier.

Effective January 1, 2017.

(Amends R.S. 22:1856(C))

### **Broken Vehicle Insurers (Act 123)**

Existing law requires that every vehicle mechanical breakdown insurer annually file an audited financial statement with the commissioner.

New law allows a vehicle mechanical breakdown insurer to file an audited consolidated financial statement with the consolidating schedule, or other audited statement deemed acceptable by the commissioner, in lieu of the audited financial statement.

New law provides that the submitted financial statements are subject to being audited.

Effective August 1, 2016.

(Amends R.S. 22:366)

### **Foreign Insurers – Deposits (Act 140)**

Prior law required a foreign insurer applying for a certificate of authority to transact business in

Louisiana to deliver a certificate to the commissioner showing that a deposit of not less than \$100,000 has been made in the domiciliary state of the insurer for the benefit and protection of all policyholders and as protection for all creditors of the insurer.

New law requires that the deposit be made in compliance with the laws of the domiciliary state, rather than for the benefit and protection of all policyholders and as protection for all creditors of the insurer.

Effective May 19, 2016.

(Amends R.S. 22:332(A)(13))

### **Health Insurance Coverage for Reconstructive Surgery (Act 145)**

New law expands the required coverage of reconstructive surgeries following mastectomies by various types of health insurers, health plans, PPOs, and HMOs. New law requires such coverage by a "health benefit plan" offered by a "health insurance issuer", both broad terms which encompass all of the types of plans and entities provided for by present law.

New law provides that a health benefit plan that provides medical and surgical benefits for a partial or full mastectomy shall also provide such benefits for breast reconstruction.

Old law provided that such coverage shall be in a manner determined in consultation with the attending physician and the patient. New law instead provides that coverage shall be for breast reconstruction procedures selected by the patient in consultation with attending physicians.

Old law provided that such coverage may be subject to annual deductibles, coinsurance, and copayment provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan or coverage. New law provides that such coverage may be subject to annual deductibles, coinsurance, and copayment provisions as are consistent with those established for mastectomy procedures under the health benefit plan.

New law prohibits health benefit plans from: (a) requiring that mastectomy procedures and reconstructive procedures be performed under the same policy or plan; or (b) reducing or limiting coverage benefits to a patient for the reconstructive procedures performed pursuant to new law as determined in consultation with the attending physician and patient.

(Amends R.S. 22:1077; repeals R.S. 22:272(E) and R.S. 40:2209)

### **Pharmacy Protection from Fees (Act 148)**

New law prohibits a health insurance issuer or a pharmacy benefit manager from directly or indirectly charging or holding a pharmacist or pharmacy responsible for any fee related to a claim:

- (1) That is not apparent at the time of claim processing.
- (2) That is not reported on the remittance advice of an adjudicated claim.
- (3) After the initial claim is adjudicated.

New law further defines a "pharmacy benefit manager" as a person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits.

Effective August 1, 2016.

(Adds R.S. 22:1860.2)

### **Insurer/Producer Termination (Act 142)**

Present law allows an insurance company to terminate the appointment of an insurance producer.

New law requires the insurance company to provide the producer with 180 days notice prior to the termination of the appointment. New law provides that the 180 days notice does not apply to captive producers, surplus lines, non-captive producers writing life and annuity insurance policies, and certain contractual relationships.

New law allows an insurer to terminate the non-captive producer's appointment without notice under certain conditions for cause.

New law requires an insurer who has terminated a non-captive producer's appointment to renew all contracts of insurance written by the producer for 180 days from the notice of termination. New law requires the insurer to pay the producer commissions for the renewals.

(Adds R.S. 22:1569)

### **Reinsurance (Act 199)**

Prior law provides for credit for reinsurance ceded by domestic insurers in accordance with the National Association of Insurance Commissioners (NAIC) Model Credit for Reinsurance Law. New law adds provisions recently added to the NAIC Model Credit for Reinsurance Law.

New law authorizes the commissioner of insurance to adopt specific additional requirements relating to or setting forth the valuation of assets or reserve credits; the amount and forms of security supporting reinsurance arrangements; or the circumstances pursuant to which the credit will be reduced or eliminated.

New law authorizes the commissioner to adopt rules and regulations applicable to various reinsurance arrangements.

New law provides that these regulations may require the ceding insurer, in making certain calculations, to use the Valuation Manual adopted by NAIC.

New law prohibits regulations that apply to any cession to an assuming insurer if the assuming insurer meets any of the following criteria:

(1) Is certified in this state or in a minimum of five other states, or

(2) Maintains at least \$250 million in capital and surplus determined under certain NAIC procedures and is either: licensed in at least 26 states, or licensed in at least 10 states and

licensed or accredited in a total of at least 35 states.

Effective August 1, 2016.

(Amends R.S. 22:651(A), 652, and 661)

### **Claims Adjusters (Act 174)**

Prior law required any business entity seeking to be engaged in business as an independent insurance claims adjusting company to provide a listing of all executive officers and directors of the applicant and of all executive officers and directors of entities owning and any individuals owning, directly or indirectly, 10% or more of the outstanding voting securities of the applicant. New law changes "owning" to "controlling" and defines "control" as provided in the Insurance Holding Company System Regulatory Law of the Insurance Code.

Prior law provided for reciprocity for licensed claims adjusters for those from states that require licensure. New law provides that a nonresident who is not eligible for licensure under reciprocity provisions in the Insurance Code may designate Louisiana as his home state, provided the person successfully passes the adjuster examination and complies with all the requirements for a Louisiana resident adjuster.

Prior law provided that an individual who applies for a claims adjuster license in La. who was previously licensed as a claims adjuster in another state based on a claims adjuster examination shall not be required to complete an examination under certain circumstances. New law deletes these provisions.

Prior law provided that an individual licensed as a claims adjuster in another state based on a claims adjuster examination who moves to this state shall make application within 90 days of establishing legal residence to become a resident claims adjuster licensee. Prior law provided that no examination is required of that individual to obtain a claims adjuster license.

New law limits this 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.

Prior law provided that an individual who applies for a claims adjuster license in La. who was previously licensed as a claims adjuster in La. shall not be required to complete an examination. This exemption was available only if the application is received within 12 months of the cancellation of the applicant's previous claims adjuster license in La. and if, at the time of cancellation, the applicant was in good standing in La., and had passed the required examination. New law increases the 12 month time frame to 24 months.

New law authorizes the commissioner 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.

New law provides that a claims adjuster may receive qualification for a license in one or more of several lines of authority.

New law provides that a claims adjuster doing business under any name other than the claims adjuster's legal name is required to notify the commissioner of insurance prior to using the assumed name. Prior to the use of or changes to any trade name or names, the claims adjuster is required to provide written notification to the commissioner. New law requires that a certified copy of the registration from the secretary of state shall accompany the application for a trade name.

Prior law provided that a claims adjuster whose license has lapsed may, within 12 months from

the expiration date of the renewal, reinstate the license upon approval of the commissioner. Prior law provided that reinstatement shall be effective on the date the commissioner of insurance approves the request for reinstatement.

New law removes these provisions and provides that a licensed claims adjuster who allows his license to lapse may, within two years from the expiration date of the license, reinstate the same license upon proof of fulfilling all continuing education requirements through the date of reinstatement and upon payment of all fees due. New law provides that if the license has been lapsed for more than two years, the applicant shall fulfill the requirements for issuance of a new license.

Prior law provided that the commissioner may place on probation, suspend, revoke, or refuse to issue, renew, or reinstate a claims adjuster's license or may levy a fine for any one or more of various causes.

New law adds the following reasons:

- (1) Providing incorrect, misleading, incomplete, or materially false information in the license renewal application.
- (2) Violating the insurance laws or regulations of the United States or any other jurisdiction.
- (3) Intentionally misrepresenting the terms of an actual or proposed insurance binder, rider, or plan, including all forms or documents that are attached, or will be attached, to an actual or proposed insurance contract, binder, rider, plan, or application for insurance.
- (4) Conviction of or a nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge, suspension or deferral of sentence and probation pursuant to Article 893 of the Code of Criminal Procedure or similar law of another state, or conviction of any misdemeanor involving moral turpitude, or public corruption, or the adjustment of insurance claims.

(5) The refusal to submit physical evidence of identity or the conviction of a felony.

(6) Employing or allowing to associate with his business, in any manner, any person engaged in the business of insurance who has been convicted of a felony under the laws of this or any other state, the United States, or any other jurisdiction. "Business of insurance" means the writing of insurance or the reinsuring of risks by an insurance producer or insurer, including all acts necessary or incidental to such writing or reinsuring, and the activities of persons who act as, or are, officers, directors, agents, or employees of producers or insurers, or who are other persons authorized to act on behalf of such persons.

(7) The conviction of a felony involving dishonesty or breach of trust pursuant to 18 U.S.C. §1033 and §1034, without written consent from the commissioner of insurance pursuant to 18 U.S.C. §1033, or any successor statute regulating crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

The above provisions are effective August 1, 2016.

Prior law provided an exemption from licensure for workers' compensation adjusters. New law repeals that exemption effective August 1, 2017.

(Amends R.S. 22:1664(C)(2), 1665, 1669, 1671, and 1672 (A); repeals R.S. 22:1662(13))

### **Rental Car Insurance (Act 162)**

Prior law authorized the commissioner of insurance to issue a limited license to a motor vehicle rental company, whether foreign or domestic, which license shall authorize the company and its employees to offer or sell insurance in connection with the rental of motor vehicles. New law allows the limited license to include authorized agents of the rental company.

New law defines "authorized agent" as an agent or representative authorized by the limited licensee to act individually on behalf, and under

the supervision, of the limited licensee to offer or sell insurance in connection with and incidental to the rental of motor vehicles.

New law provides that each employee and authorized agent of the motor vehicle rental company is deemed to be licensed under the limited licensee's license when acting for or on behalf of the limited licensee.

Effective August 1, 2016.

(Amends R.S. 22:1762, 1763(A) and 1766)

### **Insurance Fraud Enforcement (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. New law extends these provisions until July 1, 2018. Effective date of new law is July 1, 2016.

Prior law provided that the Sledge Jeanson 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. New law extends these provisions until August 1, 2018. Effective date of new law is August 1, 2016.

(Amends R.S. 22:1931.13 and R.S. 40:1429)

### **Health Insurance Coverage – Topical Ophthalmic Prescriptions (Act 206)**

New law 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. New law prohibits denial of a refill request under specified circumstances.

New law requires the prescriber to indicate on the original prescription that additional quantities are necessary and provides that the original prescription not exceed the number of additional quantities necessary for treatment.

New law limits the refills 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.

Effective August 1, 2016.

(Adds R.S. 22:997.1)

#### **Self-Stored Property Insurance (Act 258)**

New law allows the issuance of an additional specialty limited lines insurance license for selling property coverage for property self-stored in self-storage facilities.

New law provides for procedures for issuing and revoking this limited lines license, which shall be subject to the same license and fee requirements as limited line producers.

New law provides for training for licensees.

(Adds R.S. 22:1550.1)

#### **Health Care Provider/MCO Contracts (Act 265)**

New law prohibits managed care organizations from terminating a contractual relationship with a provider due to the provider refusing to participate in all healthcare plans and provider networks offered by the insurer.

New law prohibits managed care organizations from requiring healthcare providers to agree to participate in all healthcare plans and provider networks offered by the managed care organization as a condition of the provider entering a contractual relationship with the insurer.

New law provides an exception for insureds from other states traveling in Louisiana.

Effective August 1, 2016.

(Amends R.S. 22:1007(J); adds R.S. 22:1007(K))

#### **Homeowners Insurance (Act 274)**

Existing law requires that homeowners' insurers provide certain disclosures with homeowners' insurance policies issued or delivered in this state on a form developed and promulgated by the commissioner of insurance.

New law adds an additional required disclosure to the insured that making a claim that does not exceed the policy deductible, and does not result in payment either to or on behalf of the insured, may be used to increase the premium or as part of the basis for cancellation of the policy.

New law is applicable to new homeowner's policies and the renewal of existing homeowner's policies and becomes effective six months after the form promulgation.

Effective August 1, 2016.

(Adds R.S. 22:1332(B)(7))

#### **Certificate of Insurance (Act 278)**

Present law allows the use of insurance certificates promulgated by the Association for Cooperative Operations Research and Development (ACORD), the American Association of Insurance Services (AAIS), or the Insurance Services Office (ISO), or any certificate approved by the commissioner of insurance. New law allows only the use of certificates of insurance promulgated by an *insurer*, ACORD, AAIS, ISO, or by a lender.

New law prohibits a certificate holder or other interested party, other than a lender, from requiring an interpretation of the forms and endorsements to an insurance policy that are listed on a certificate of insurance.

Present law provides that either an insurance producer or insurer may be asked to provide an addendum to a certificate of insurance that clarifies, explains, summarizes, or provides a statement of the coverages provided by an insurance policy.

New law provides that only the insurer may be asked to provide an addendum to a certificate of insurance that clarifies, explains, summarizes, or provides a statement of the coverages provided by an insurance policy. New law provides that an insurance producer may not be asked to provide any additional documents other than a certificate of insurance, other than by a lender.

(Amends R.S. 22:890)

### **Citizens Property Insurance Corp. (Act 367)**

Present law authorizes every producer licensed by the state to sell property and casualty insurance to sell insurance policies issued by La. Citizens Property Insurance Corporation.

New law authorizes only resident producers to sell insurance policies issued by La. Citizens Property Insurance Corporation.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 22:2313(A))

### **Insurance for State Entities (Act 374)**

Present law levies a tax on the gross premium for all surplus lines of insurance for which La. is the home state of the policyholder and provides for exemptions. New law adds insurance purchased by state agencies to the list of policies exempted from the surplus lines tax.

Present law provides for the La. Insurance Underwriting Plan (Coastal Plan) and the La. Joint Reinsurance Plan (FAIR Plan) as insurance programs of the La. Citizens Property Insurance Corporation and requires all assessable insurers to participate in assessments levied by the plans as a condition of authority to transact the business of insurance in La. New law exempts the office of risk management as an assessable insured and prohibits any policy of property coverage purchased by the office from being subject to any regular or emergency assessment under present law.

Present law establishes the office of risk management within the division of administration. New law 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.

(Amends R.S. 22:439(D) and R.S. 39:1528; adds R.S. 22:2301(F))

### **Domestic Life Insurer Investments (Act 372)**

Prior law allowed any domestic life insurer to invest in shares of capital stock listed on a national securities exchange and in the securities of a solvent corporation, with the following exceptions:

(1) Corporations engaged solely in the business of owning and operating real estate.

(2) Corporations having substantially all of its assets invested in the shares of those corporations.

New law repeals those exceptions.

Existing law allows a domestic life insurer to invest up to five percent of its admitted assets in the shares or securities of a REIT (Real Estate Investment Trust) whose stock is listed on the New York Stock Exchange, NASDAQ, or the American Stock Exchange. New law additionally allows the domestic life insurer to invest in a REIT domiciled in Louisiana whose stock is not listed on the New York Stock Exchange or NASDAQ.

New law deletes references to the American Stock Exchange.

Effective August 1, 2016.

(Amends R.S. 22:584(C)(1) and (D)(1)(a))

### **Domestic Insurer or HMO Mergers (Act 379)**

New law requires a domestic insurer or a domestic health maintenance organization to obtain the approval of the commissioner prior to any merger. New law requires a domestic insurer or a health maintenance organization to submit a written approval request that includes the articles or plan of merger, a proforma consolidated financial statement for the merging entities, and other information the commissioner may require to determine that the merger is not detrimental to the policyholders, enrollees or to the financial solvency of the domestic insurer or domestic health maintenance organization.

Effective August 1, 2016. (Adds R.S. 22:76 and 264.1)

### **TMJ Insurance Coverage (Act 405)**

New law requires every hospital, health, or medical expense insurance policy in the large group market as defined in prior law to include coverage of diagnosis and treatment for temporomandibular joint (TMJ) and associated musculature and neurological conditions.

New law exempts the Office of Group Benefits from the requirements of new law.

New law requires the TMJ insurance coverage to be subject to the same conditions, limitations, precertification, prior authorization, referral procedures, copayment, and coinsurance provisions that apply coverage for diagnosis and treatment involving other bones or joints of the human skeleton.

New law applies to all new policies, plans, certificates, and contracts issued on or after January 1, 2018. New law requires existing policies, plans, certificates, and contracts to include coverage for TMJ by January 1, 2019.

Effective upon signature of the governor (June 8, 2016).

(Adds R.S. 22:1055)

### **Insurance Consultant Licensing (Act 312)**

New law authorizes the licensing and regulation of insurance consultants by the commissioner of insurance, with an initial term of two years and followed by renewals at two year intervals.

New law requires an applicant for an insurance consultant license to pass a written examination for each line of insurance for which he wishes to be licensed.

New law provides that, under certain circumstances, an individual who was previously licensed as a resident insurance consultant for the same lines of authority in another state shall be exempted from the examination requirement in this state.

New law requires each applicant to submit a full set of fingerprints and pass a criminal background check, each of which shall be confidential and not subject to the public records law.

New law provides a license renewal process, including the payment of certain fees, and for a process for the failure to timely renew a license.

New law creates reciprocity with other states for nonresident insurance consultants.

New law allows an insurance consultant to be licensed for the insurance lines of life, health and accident, variable life and variable annuity products, property, and casualty.

New law gives the commissioner of insurance the authority to place on probation, suspend, revoke, or refuse to issue, renew, or reinstate an insurance consultant license. New law also gives the commissioner of insurance the authority to levy fines up to \$500, but not exceeding \$10,000 in the aggregate, for certain enumerated violations. New law provides for due process when the commissioner of insurance exercises such authority.

New law prohibits an insurance consultant from receiving commissions, service fee, brokerage,

or other valuable consideration for selling, soliciting, or negotiating insurance in the state.

New law requires an insurance consultant's compensation to be set forth in a written agreement. New law requires the disclosure of certain information in the written agreement, including the services to be provided and the time period for the agreement.

New law specifies acts that are prohibited for licensed insurance consultants. New law authorizes civil and criminal penalties for certain conduct, including suspension or revocation of license, civil fines, criminal fines, and imprisonment.

New law requires an insurance consultant to report to the commissioner of insurance any administrative action taken in another jurisdiction or by another governmental agency in the state.

New law makes the submission of fingerprints and the background report exempt from public records.

Effective August 1, 2016.

(Amends R.S. 22:1573 and R.S. 44:4.1; adds R.S. 22:821(B)(38) and 1808.1-1808.13)

### **Insurance Producer Licensing (Act 315)**

New law specifies that a resident individual shall pass an examination for each line of insurance that an applicant seeks to transact in this state, with a score of at least 70%.

Present law requires a business entity acting as an insurance producer to obtain an insurance producer license. Old law required that every member, partner, officer, director, stockholder, and employee of the business entity personally engaged in this state in soliciting or negotiating policies of insurance shall be registered with the Dept. of Insurance (DOI) under such business entity's license. Old law required each such person to also qualify as an individual licensee for any line of insurance the business entity is licensed to transact.

New law retains requirement that a business entity acting as an insurance producer obtain an insurance producer license. However, new law provides that every member, partner, officer, director, and person who controls directly or indirectly 10% or more of the applicant shall be registered with DOI under such business entity's license. New law adds a requirement that every individual who is personally engaged in soliciting or negotiating policies in this state shall be registered with the DOI under such business entity's license and shall also qualify as an individual licensee for any line of insurance that the business entity is licensed to transact. New law authorizes the commissioner of insurance to require that such registered individuals submit fingerprints.

Old law required each licensee to notify the commissioner of any alteration in his residential, mailing, or business address within 30 days of the alteration. New law instead requires each licensee to notify the commissioner of any change of address, legal name, or information submitted on the application within 30 days of the change.

New law adds as grounds for license denial, nonrenewal, or revocation by the commissioner, if the producer is a business entity, refusing to remove or discharge a registered person who has (i) been convicted or pleaded nolo contendere to any felony, (ii) participated in a pretrial diversion program pursuant to a felony charge, suspension and deferral of sentence, and probation pursuant to the Code of Criminal Procedure, (iii) been convicted of any misdemeanor involving moral turpitude or public corruption, (iv) had an insurance producer license revoked or suspended, or (v) is found to have violated any provision of the Insurance Code.

Present law prohibits any insurer or insurance producer from paying any money or commission or brokerage, or giving or allowing any valuable consideration or compensation to any person or business entity not duly licensed as an insurance producer, nor to an insurer not licensed to do business in this state, for or because of service rendered or performed in this state in selling,

soliciting, negotiating, or effecting a contract of insurance on any property or risks, or insurable interests, or business activities located within or transacted within this state, but this prohibition shall not apply to the owners of an insurance agency.

New law provides that this prohibition shall not apply to the owners of a business entity licensed as a producer so long as the appropriate persons have been registered and licensed and the owners are not persons who: (i) have been convicted or pleaded nolo contendere to any felony, (ii) participated in a pretrial diversion program pursuant to a felony charge, suspension and deferral of sentence, and probation pursuant to the Code of Criminal Procedure, (iii) been convicted of any misdemeanor involving moral turpitude or public corruption, (iv) have had an insurance producer license revoked or suspended, or (v) are found to have violated any provision of the Insurance Code.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 22:1545, 1546, 1547(G), 1554 and 1562(A))

#### **Life Insurer Reserves (Act 316)**

Prior law allowed a domestic life insurer to apply to the commissioner of insurance for an exemption from the Standard Valuation Manual so that the insurer may continue to use the statutory reserve formula for the entire company or for specific product forms or lines. New law repeals the prior process and authority for the commissioner of insurance to exempt a domestic insurer from the requirements of the Standard Valuation Manual.

New law adopts the single-state exemption from the NAIC Standard Valuation Model Law, which permits the commissioner to exempt from the requirements of the Standard Valuation Manual a domestic insurer or certain types of policies of a domestic insurer that only does business in La. New law authorizes the commissioner to exempt specific product forms or product lines of such a company if:

(1) The commissioner has issued a written exemption to the company that has not been revoked, and

(2) The company computes reserves using assumptions and methods used prior to the operative date of the valuation manual in addition to any requirements established by the commissioner and promulgated by regulation.

New law specifies that domestic insurers granted the exemption shall continue to follow all other provisions of existing law that govern actuarial opinions and calculation of life insurance reserves.

Effective upon signature of governor (June 2, 2016).

(Adds R.S. 22:753.1; repeals R.S. 22:753(C)(8))

#### **Pharmacy Services Balance Billing (Act 527)**

New law provides that an individual shall not be required to make a payment for pharmacists services in an amount greater than the pharmacist or pharmacy providing the services may retain from all payment sources.

New law provides that the limited cost for pharmacists services provision is effective on January 1, 2017.

Effective August 1, 2016.

(Adds R.S. 22:1060.6)

#### **Changes in Health Insurance Coverage (Act 573)**

New law requires that a health insurance issuer proposing to change its coverage of a particular prescription drug or intravenous infusion based on medical necessity give notice of the proposed change to an insured currently using that prescription drug or intravenous infusion who the health insurance issuer determines the change may affect, if the health insurance issuer has covered the drug or intravenous infusion for the insured for at least the preceding 60 days. New law requires that any such notice be sent at

least 60 days prior to the effective date of the proposed change.

New law provides that any insured receiving such a notice from a health insurance issuer shall have the right to appeal the proposed change during the 60-day notification period in accordance with present law, the state's appeals law, the Internal Claims and Appeals Process and External Review Act. New law also requires that, in filing such an appeal, the insured shall document that his physician or authorized prescriber considers continued use of the drug or intravenous infusion to be medically necessary.

New law shall apply only to a health benefit plan delivered, issued for delivery, or renewed on or after Jan. 1, 2017, and shall not apply to a health benefit plan delivered, issued for delivery, or renewed before Jan. 1, 2017.

Effective January 1, 2017.

(Amends R.S. 22:1060.4; adds R.S. 22:1060.3(C))

#### **Notice of Insurance Coverage Reduction (Act 596)**

New law requires insurers to provide policyholders written notification outlining any reduction in coverage in policy provisions at renewal.

Effective January 1, 2017.

(Adds R.S. 22:41.1)

#### **Mandated Health Benefits Commission (Act 45)**

New law abolishes the La. Mandated Health Benefits Commission provided for in prior law.

New law reorganizes the La. Mandated Health Benefits Commission, changing its composition and staffing.

New law states that, pursuant to federal law, the annual cost of any mandated benefit in excess of

Essential Health Benefits (EHBs) for Qualified Health Plans (QHPs) shall be a legal obligation of the state of La. and shall be defrayed by the state through direct reimbursement to any health insurance issuer entitled to such reimbursement pursuant to such federal law.

New law provides that the duties of the commission shall include:

(1) Reviewing proposed legislation in any legislative session to determine if the legislation creates such an excess mandated health benefit, notify the House and Senate committees on insurance and provide an actuarial cost projection.

(2) Conducting the review process for any mandate that was enacted after December 31, 2011.

New law provides that any health insurance issuer that issues QHPs shall have the right to appear and be heard and to submit information to the commission for consideration.

New law provides that any health insurance issuer that objects to the commission's adoption of the cost estimate of a mandate shall have the right to file an appeal in the 19th Judicial District Court within 30 days of the adoption of such cost estimate.

Prior law required that existing health insurance mandates undergo an actuarial cost analysis by DOI, to be reported to the House and Senate insurance committees. New law eliminates prior law.

Effective August 1, 2016.

(Amends R.S. 36:686(F); adds R.S. 22:2187; Repeals R.S. 22:1047, 2186, and 2186.1)

#### **Insurance Premium Tax Credits (1st E.S. Act 10)**

Present law authorizes a credit against the insurance premium tax for insurers who invest a portion of their total admitted assets in qualified La. financial institutions and investment



products. The percentage of the credit increases as the percentage of an insurer's assets invested in La. increases.

New law deletes, beginning Jan. 1, 2017, the following investments from being qualified:

(1) Certificates of deposit issued by a La. bank, or investments in such instruments by a trust company with a main office or one or more branches in La.

(2) Cash on deposit in a La. bank or a trust company holding such funds in trust, operating in the state with a main office or one or more branches.

New law reduces the tax credit by 5% for any tax year beginning on or after Jan. 1, 2016, and before Jan. 1, 2018, unless the insurance company claiming the reduction writes life insurance premiums and has total admitted assets of \$15 million or less.

(Amends R.S. 22:832(A) and (C))

#### **HMO Taxes (2nd E.S. Act 1)**

Old law required, in lieu of the state income tax and the corporate franchise tax, every health maintenance organization to pay an annual license tax on the gross amount of its receipts from contracts and other evidences of coverage at the same rate as the license tax on life insurance companies provided for in present law, with the exception that the rate for HMOs with enrollment in coverage in the individual market in La. greater than 55,000 individuals as of Dec. 31, 2015, is \$600 for every \$10,000 of gross annual premiums collected.

New law repeals old law and establishes the annual tax rate for all health maintenance organizations at \$550 for every \$10,000 of gross annual premiums collected.

New law applies to any taxable periods beginning on and after Jan. 1, 2016.

(Amends R.S. 22:842; repeals R.S. 22:270)

#### **HMO Qualified Investments (2nd E.S. Act 7)**

Existing law authorizes a credit against the insurance premium tax credit for insurers who invest a portion of their total admitted assets in La. financial institutions and investment products.

Existing law provides for a 5% reduction of the tax credit for any tax year beginning on or after Jan. 1, 2016, and before Jan. 1, 2018, unless the insurance company claiming the reduction writes life insurance premiums and has total admitted assets of \$15 million or less.

New law exempts health maintenance organizations (HMOs) from the 5% reduction of the tax credit.

New law authorizes, for taxable years beginning on or after Jan. 1, 2017, and before Jan. 1, 2019, the following as additional "qualified La. investments" for HMOs:

(1) Certificates of deposit issued by a La. bank or investments in such instruments by a trust company with a main office or one or more branches in La.

(2) Cash on deposit in a La. bank or a trust company holding such funds in trust, operating in the state with a main office or one or more branches.

New law authorizes a 50% reduction for the tax due under existing law for calendar year 2016 for certain domestic HMOs with no fewer than 500 employees residing in La. if the HMO has invested at least \$25 million in bonds of the state, a political subdivision, or bonds approved for issue by the State Bond Commission for the last two calendar quarters of 2016.

New law prohibits application of the reduction to premiums collected or received pursuant to Medicaid or the State Children's Health Insurance Program or to an HMO that is eligible for a tax reduction under existing law.

Effective upon signature of governor (June 24, 2016).

(Amends R.S. 22:832)

## **TITLE 23: LABOR AND WORKERS' COMPENSATION**

### **Private Veterans Preference Employment Policies (Act 190)**

New law 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.

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. New law provides that this preference for veteran employment is not to be considered a violation of any state or local equal employment opportunity law.

Effective August 1, 2016.

(Adds R.S. 23:1001)

### **Workers Compensation Insurance (Act 470)**

Present law provides that if a settlement occurs or a judgment is obtained against a third party that injured an employee and the employee receives funds from the third party, the employer or insurer shall receive a dollar-for-dollar credit for workers' compensation benefits paid against the full amount paid in settlement or judgement, less attorney fees and costs paid by the employee in prosecution of the third party claim.

Present law provides the insurer shall grant its insured a dollar-for-dollar credit for any amount on any claim paid on the employer's behalf and recovered in the current year, less any reasonable expenses incurred in the recovery by the insurer, in an action or compromise.

New law provides that the credit shall 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), to be applied in determining the annual premium paid by the employer for workers' compensation insurance.

New law provides that the group self insurance fund shall apply the loss experience modifier authorized by prior law applicable to group self-insurance funds.

Effective August 1, 2016.

(Amends R.S. 23:1103(D))

### **Unemployment Compensation Qualification (Act 463)**

New law provides that an individual shall not be disqualified from receiving benefits if he is otherwise eligible to receive benefits, is the spouse of a military service member, and resigns his employment in order to relocate with his spouse pursuant to an order of permanent change of station.

New law provides that benefits paid to an employee who leaves his job pursuant to his spouse's permanent change of station order shall not be charged against the experience rating of an employer from whom an employee leaves to relocate and shall be recouped as a social charge.

Effective August 1, 2016.

(Amends R.S. 23:1553; adds R.S. 23:1601(1)(d))

### **Employability of Ex-Cons (Act 538)**

Present law provides that the reentry division of court shall establish a workforce development sentencing program, which shall establish guidelines for the issuance of sentences providing inmate rehabilitation and workforce development, and which shall work in conjunction with the Louisiana Workforce Commission.

New law requires a judge presiding over a reentry division of court to issue a temporary certificate of employability to an offender in the reentry program and a permanent certificate of employability to an offender who has successfully completed his sentence.

New law provides that a temporary certificate shall be deemed null and void if the offender fails to complete his sentence under R.S. 13:5401, and that a certificate of employability is void if the offender is convicted of any felony offense subsequent to the issuance of the certificate of employability.

New law provides that an employer, general contractor, premises owner, or other third party shall not be subject to a cause of action for negligent hiring of or failing to adequately supervise an offender certified to be employed solely because that employee or independent contractor has been previously convicted of a criminal offense.

New law provides that it shall not affect the vicarious liability of the employer.

(Adds R.S. 23:291.1)

### **Boilers (Act 574)**

New law exempts potable water boilers below 120 gallon capacity and less than 200,000 BTUs (British Thermal Units) from regulations affecting boilers.

(Amends R.S. 23:540)

### **Apprenticeship (Act 597)**

New law prohibits any apprenticeship law or agreement from invalidating any special provision that affects veterans, minorities, or women contained in the apprenticeship program standards, qualifications, agreement, or program operating procedures.

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 23:391)

## **TITLE 24: LEGISLATURE AND LAWS**

### **Retirement System Bills (Act 176)**

Prior law provided that every bill, joint resolution, and simple or concurrent resolution introduced in the legislature which proposes a change in any state, municipal, or parochial retirement system funded wholly or partially with public funds shall at the time of its consideration, have attached an actuarial note, which is a brief explanation of the financial or actuarial effect of the proposed change.

New law provides that the actuarial note for any bill prefiled at least 45 days prior to a regular session of the legislature shall be completed and filed at least five days prior to the convening of that session.

Effective August 1, 2016.

(Amends R.S. 24:521(B)(1))

### **Legislative Youth Advisory Council (Act 164)**

New law changes the composition of and advisors to the Legislative Youth Advisory Council.

Prior law provided that council members serve without compensation; however, legislative advisory members receive mileage and per diem at the rate established by the legislature when attending meetings of the council. New law provides that the legislators appointed as

advisors shall receive such mileage and per diem when attending a council meeting.

Effective upon signature of the governor (May 19, 2016).

(Amends R.S. 24:973.1)

### **Retirement System Bills (Act 353)**

Existing law (R.S. 24:521) provides that every bill and resolution introduced in the legislature that proposes a change in any retirement system funded wholly or partially with public funds shall have attached an actuarial note.

Prior law provided that an actuarial note is a brief explanation of the financial or actuarial effect of the proposed change. New law changes the word "financial" to "fiscal."

Existing law requires that the actuarial note be factual and concise, providing an estimate in dollars of the impact of the proposed change. New law further requires that the note include the estimated fiscal impact on governmental entities, including the effect on federal, state, and local funds.

Existing law makes it the responsibility of the committee chairman of any committee which amends a bill so as to substantially affect the costs or revenues of a retirement system to request an actuarial note as to the amendment. New law additionally provides that if the committee amends a bill so as to substantially affect the estimated fiscal impact on governmental entities, the chairman shall request an actuarial note as to the amendment.

Existing law provides that any floor amendment which would have such an impact on any retirement system and which is not accompanied by an actuarial note as to that amendment shall be deemed withdrawn upon adoption of a motion offered by any member. New law provides that such provision also applies to any floor amendment that would substantially affect the estimated fiscal impact on governmental entities.

Effective August 1, 2016.

(Amends R.S. 24:521(A), (C), and (D))

### **Lobbying Expenditure Reports (Act 416)**

Existing law requires each lobbyist to file monthly reports 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.

New law provides that amounts reported as being attributable to an official or the spouse or minor child of an official shall not include any expenditure made at an event that the official, spouse, or minor child did not attend.

Effective August 1, 2016.

(Adds R.S. 24:55(D)(3) and R.S. 49:76(D)(3))

### **Lobbyist Registration Renewal (Act 418)**

New law specifies that no supplemental registration form is required if the termination of employment or representation occurs after Dec. 31 and the lobbyist timely files his renewal form during the renewal period and the renewal form accurately and completely lists the lobbyist's employment and representation.

New law specifies that no supplemental registration form is required if the lobbyist begins representing an additional person after Dec. 31 and the lobbyist timely files his renewal form during the renewal period and the renewal form accurately and completely lists the lobbyist's employment and representation.

Effective August 1, 2016.

(Amends R.S. 24:53, R.S. 33:9664, and R.S. 49:74)

### **Public Retirement Systems (Act 460)**

Existing law requires the legislative auditor to make periodic detailed reports, both to the

legislature and the governor, specifically setting forth his findings as to the actuarial soundness of the public retirement systems.

New law requires that at least every five years the legislative auditor include in such reports comparative summaries of each system's reported actuarial assumptions and funded ratio and his findings as to the appropriateness of each system's assumptions.

Effective August 1, 2016.

(Amends R.S. 24:513(C)(1))

#### **State Law Institute (Act 428)**

New law changes composition of the council of the La. State Law Institute.

Effective August 1, 2016.

(Adds R.S. 24:202(A)(24) and (25))

#### **State Law Institute (Act 536)**

New law provides that all meetings of the La. State Law Institute, including but not limited to council, committee, and subcommittee meetings, shall be held at a meeting space located in a public building and open to the public for the purposes of the meeting.

New law provides that at least a majority of the council meetings, and at least a majority of the meetings of each committee, subcommittee or other body of the institute, held each year shall be in Baton Rouge.

New law provides that meetings of the institute shall be subject to the Open Meetings Law and Public Records Law.

Effective January 1, 2017.

(Adds R.S. 24:202(F) and (G))

#### **Injunctions against Audit Reports (Act 641)**

New law provides that an application to a court of competent jurisdiction for a temporary

restraining order, preliminary injunction, or permanent injunction barring the release of an audit report by the legislative auditor shall be assigned for hearing by the court not less than two nor more than 10 days after service of the petition.

New law provides that any order granting or denying the relief prayed for shall be rendered by the court within 48 hours following the conclusion of the hearing.

New law provides that an appeal shall be filed in the appropriate appellate court not later than the seventh day after the judgment is rendered and that the appellate court shall render its decision within 10 days.

(Amends R.S. 24:513(G))

#### **Legislative Electronic Polling (Act 674)**

Existing law contains a variety of requirements for the consent, approval, or other declaration of the members of the legislature, or either house, to be sought by mail ballot or petition.

New law provides that if the clerk of the House and the secretary of the Senate are required to send a ballot, petition, or other documentation to the members of the legislature by mail, either by law or pursuant to the rules of procedure of the House of Representatives and the Senate, and the clerk and the secretary jointly determine that it is feasible and desirable to utilize the electronic transmission system instead of mail, then, notwithstanding any requirement to the contrary, the clerk and the secretary may utilize the electronic transmission system for such transmission. New law provides similar provisions with respect to transmissions to members of a single chamber.

New law provides that when necessary to determine any deadline based upon a postmark, the transmission date through the system shall serve as the postmark.

Effective August 1, 2016.

(Adds R.S. 24:15)

## **TITLE 25: LIBRARIES, MUSEUMS, AND OTHER SCIENTIFIC**

### **Colombia Schepis Museum (Act 16)**

Prior law established the Schepis Museum in the Town of Colombia, in Caldwell Parish, under the overall jurisdiction of the Department of State and further provided for an advisory board for the museum. New law repeals prior law.

Effective upon signature of the governor (May 9, 2016).

(Repeals R.S. 25:380.161-380.167 and R.S. 36:744(CC) and 801.23)

### **Naval War Memorial Commission (Act 100)**

Existing law creates the La. Naval War Memorial Commission in the Dept. of Culture, Recreation and Tourism.

New law changes frequency of required meetings, quorum requirements, and authority to remove commissioners.

Effective August 1, 2016.

(Amends R.S. 25:1001(B) and (C); Adds R.S. 25:1001(E))

### **Human Remains Protection and Control Act (Act 531)**

New law prohibits the following except as otherwise specifically permitted by prior law:

(1) The possession of human remains (including cremated remains).

(2) The trading in, discarding, or destruction of human remains (including donations and bequests).

New law provides that a natural or juridical person possessing human remains in violation of new law may voluntarily relinquish possession of the human remains to the La. Dept. of Justice without sanctions being imposed. New law authorizes the attorney general to waive civil

sanctions for any person who voluntarily relinquishes human remains.

New law provides that upon voluntarily relinquishing human remains, any person may designate which qualified entity or entities the human remains should be transmitted to for permanent curation following analysis for compliance with law. New law provides that these transmissions are to occur only with the concurrence of the designated qualified entity or entities. New law provides that without this concurrence or direction, the attorney general is authorized to dispose of human remains relinquished or acquired by the Dept. of Justice.

New law exempts the following entities:

(1) Private and public institutions of primary, secondary, or higher education.

(2) Federal, state, and local governments and any political subdivision thereof as well as federal, state, and local law enforcement officials acting within their statutory authority.

(3) Qualified museums or research institutions.

New law is not intended to supplant the current primary criminal jurisdiction of district attorneys nor is it intended to restrict or limit and is explicitly superceded by current provisions regarding anatomical gifts and donations; the rights of descendants and family members to control human remains; the licensed or authorized practice of funeral directing, cremation, and cemetery operation; and the authority of coroners.

New law is not intended to restrict or limit, and is explicitly superceded by, the Louisiana Unmarked Human Burial Sites Preservation Act, the Louisiana Historical Cemetery Preservation Act, and the Native American Graves Protection and Repatriation Act.

Effective upon signature of the governor (June 17, 2016).

(Adds R.S. 25:951-959)

### **Art in Public Works (Act 600)**

Existing law, the Percent for Art Program, requires state agencies to dedicate 1% of state funds for construction or renovation project costs to acquire, conserve, or restore and install works of art, but applies only to projects with state funding costs of \$2 million or more.

New law caps the amount of state funds per project dedicated to works of art to the lesser of \$450,000 or 1% of the state money to be expended on the construction or renovation project.

New law applies to all projects begun on or after Aug. 1, 2016, and contracts entered into after Oct. 1, 2016, for existing projects, if the contract increases the total expenditure for art in excess of \$450,000.

New law requires that for institutions of postsecondary education, preference shall be given to works of art created by students and faculty in art programs offered by that institution or institutions under the same postsecondary management board.

Effective August 1, 2016.

(Amends R.S. 25:900.1(C) and (E))

### **Monroe Aviation Museum (Act 14)**

Prior law established the Chennault Aviation and Military Museum of La. in Monroe under the overall jurisdiction of the Dept. of State. New law repeals prior law.

Effective upon signature of the governor (May 9, 2016).

(Amends R.S. 36:851(A); repeals R.S. 25:380.111 and 380.114-380.116)

## **TITLE 26: LIQUORS – ALCOHOLIC BEVERAGES**

### **Alcoholic Beverage Permit Applications (Act 63)**

Existing law, regarding alcoholic beverages, exempts certain persons applying for a retail, manufacturer, or wholesale permit from the requirement that their officers, directors, stockholders, or members be Louisiana citizens and residents.

New law extends exemptions to any officer, director, or stockholder of a corporation, or officer, manager, or member of a limited liability company.

New law requires that the corporation or limited liability company be either organized under the laws of the state Louisiana or qualified to do business within the state of Louisiana.

New law adds that the federal identification number shall be included on the application. New law deletes the affidavit requirement for each application.

Effective upon signature of governor (May 10, 2016).

(Amends R.S. 26:80(C))

### **Beer Distribution (Act 386)**

Prior law established regulations for the business relations between suppliers and wholesalers of beer, including action prohibited by wholesalers and suppliers.

New law retains prior law and establishes a definition of a successor as a person who replaces a supplier, importer, broker, or wholesaler with regard to the right to manufacture, sell, distribute, broker, or import a brand or brands of beer or light wine.

New law creates obligations imposed upon a successor, regardless of the character of the succession.

New law provides a successor shall:

(1) Become obligated to all the terms and conditions of the agreement in effect on the date of the succession.

(2) Have the right to contractually require its wholesalers to comply with standards of performance if the standards are uniformly established and enforced for all of its similarly situated wholesalers and conform with prior law.

Effective August 1, 2016.

(Amends R.S. 26:802(A)(4); adds R.S. 26:802(A)(15) and 813)

### **Live Entertainment (Act 395)**

Prior law permitted live entertainment on a licensed premise, except no holder of a permit for beverages of high alcoholic content or low alcoholic content shall allow any person to perform certain acts.

New law adds that entertainers who perform with exposed breasts or buttocks must be age 21 or older.

Effective August 1, 2016.

(Amends R.S. 26:90(E) and 286(E))

### **Tobacco Wholesale Dealers (Act 380)**

Prior law, relative to tobacco, defined "wholesale dealer" as a dealer whose principal business is that of wholesaler to retail dealers for the purpose of resale, is a bona fide wholesaler, and requires 50% of total tobacco sales are to retail stores, other than its subsidiaries.

New law changes the definition of "wholesale dealer" to a dealer whose principal business is that of wholesaler to retail dealers for the purpose of resale, is a bona fide wholesaler, and requires 50% of total tobacco sales are to retail stores, other than its subsidiaries or parent companies.

Effective upon signature of the governor (June 5, 2016).

(Amends R.S. 26:901(34))

### **ATC Appeals (Act 477)**

Prior law, relative to the office of alcohol and tobacco control, provided that any party aggrieved by a decision of the commissioner to withhold, suspend, or revoke a permit may, within 30 days of the notification of the decision, take a devolutive or suspensive appeal to the district court having jurisdiction of the applicant's or permittee's place of business.

New law reduces the time from 30 days to 10 days after proper notification of the commissioner's decision for an applicant's appeal to a district court having jurisdiction of the applicant's place of business.

New law adds that a suspensive appeal granted pursuant to prior law that does not result in the reversal of a decision of the commissioner to withhold, suspend, or revoke a permit may subject the appellant to a fine of up to \$5,000 upon a finding by the court that the appeal is frivolous.

Effective upon signature of the governor (June 13, 2016).

(Amends R.S. 26:920(B) and (C))

### **Alcohol Sampling, Sales, Permits, and Penalties (Act 637)**

New law allows the sampling of beer, wine, or other spirits on the premises of a Class C permit holder for both low and high alcoholic content beverages.

New law provides that the existing law prohibition does not include the sale of wine if the sale is perfected when the La. consumer is physically present on the producer or manufacturer's premises or when the wine bears a registered label that it not assigned to a La. licensed wholesaler.



Prior law required wine producers, manufacturers, and retailers domiciled outside of La. to register with the office of alcohol and tobacco control prior to shipping wine directly to a La. consumer. New law requires those retailers to apply for a permit to engage in direct shipment, and provides for an annual permit fee of \$1,000 and an annual application fee of \$1,000. New law requires those producers and manufacturers to apply for such a permit and provides for an annual fee of \$250.

Prior law provided for the filing of a quarterly statement with the Dept. of Revenue indicating the amount of wine shipped directly to La. consumers. New law changes this requirement to a monthly statement, due on the 20th day of each month.

Existing law provides for civil penalties up to \$25,000 for the transportation of wine in violation of existing law. New law provides that violators shall be subject to the existing law civil penalty, the seizure of sparkling or still wine, or both.

Effective July 1, 2016.

(Amends R.S. 26:75, 275, and 359)

#### **Alcohol Taxes (1st E.S. Act 7)**

New law reduces the amount of the discounts for the accurate reporting and timely remittance of state excise taxes on all alcoholic beverages and beer.

Effective April 1, 2016.

(Amends R.S. 26:345 and 354(D))

#### **Alcohol Tax (1st E.S. Act 13)**

New law increases the excise tax on these beverages as follows:

(1) Liquors - From \$0.66 per liter to \$0.80 per liter.

(2) Sparkling wines - From \$0.42 per liter to \$0.55 per liter.

(3) Still wines – (a) from \$0.03 per liter to \$0.20 per liter if the beverage has an alcoholic content of not more than 14% by volume; (b) from \$0.06 per liter to \$0.20 per liter if the beverage has an alcoholic content of more than 14% by volume but no more than 24% by volume; and (c) from \$0.42 per liter to \$0.55 per liter if the beverage has an alcoholic content of more than 24% by volume.

(4) Malt beverages and other beverages of low alcoholic content - from \$10 per barrel to \$12.50 per barrel containing not more than 31 standard gallons.

New law requires the increase in the excise tax on alcoholic beverages to apply to all alcoholic beverages on April 1, 2016. New law requires the increase in the excise tax imposed on sparkling wine or still wine to apply to all products shipped directly to consumers on or after April 1, 2016.

Effective April 1, 2016.

(Amends R.S. 26:341(A) and 342)

### **TITLE 27: LOUISIANA GAMING CONTROL LAW**

#### **Video Poker – Truck Stops – Grandfathering (Act 40)**

New law provides that a qualified truck stop facility, except a qualified truck stop facility located in Orleans Parish, which complies or has complied with the fuel sales requirements of existing law for five consecutive years shall thereafter be permitted to retain the number of devices it operated during that same consecutive five-year period, provided it continues to meet the minimum fuel sales requirements of 50,000 gallons of fuel of which 10,000 are diesel.

New law authorizes the Louisiana Gaming Control Board to adopt rules to recognize alternative fuel sources to satisfy the requirements regarding fuel sales provided by law.

Effective August 1, 2016.

(Amends R.S. 27:416(C))

#### **Video Poker Truck Stops (Act 129)**

New law authorizes the owner or lessor of a qualified truck stop facility to close the restaurant on Sundays and during certain specified legal holidays observed by the state departments.

(Amends R.S. 27:418(C))

#### **Video Poker Truck Stops (Act 579)**

New law removes the requirement that a portion of the required monthly fuel sales for qualified truck stops be diesel fuel sales.

New law provides that a qualified truck stop facility, except a qualified truck stop facility located within a 12-mile radius or less of the official gaming establishment in Orleans Parish, which complies or has complied with the fuel sales requirements of prior law for five consecutive years shall thereafter be permitted to retain the number of devices it operated during that same consecutive five-year period, provided it continues to sell a monthly average of 50,000 gallons of fuel.

Effective August 1, 2016.

(Amends R.S. 27:416(C))

#### **License Revocation (Act 307)**

Prior law required the La. Gaming Control Board to revoke the license to operate video draw poker devices for a third or subsequent violation of allowing a person under the age of 21 to play or operate a video draw poker device at a licensed establishment.

New law deletes the provision requiring an automatic revocation and provides instead for a hearing to determine whether or not there are extenuating circumstances under which the license should not be suspended or revoked.

(Amends R.S. 27:443(B)(1)(a)(ii) and (b)(iii))

#### **Casino Operation (Act 483)**

New law adds that a casino operator shall also promote non-gaming economic development through the development of businesses within, adjacent to, and around the official gaming establishment.

Prior law provided that the casino gaming operator is not to reduce its total operating force or personnel level below 90% of the force or level as it existed on March 8, 2001, and is not to reduce the total salary levels or compensation of its operating force or personnel by more than 10% of the salary level or compensation as it existed on March 8, 2001.

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.

New law establishes a quarterly reporting schedule of the total operating force or personnel level of the third-party tenants.

New law defines "operating force or personnel level" as any person employed by the casino and any related non-gaming entity, including hotel operations, third-party tenants, and corporate employees.

New law provides that the gaming operator 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.

Effective August 1, 2016.

(Adds R.S. 27:248)

## **TITLE 28: MENTAL HEALTH**

### **Emergency Trans-Parish Treatment (Act 384)**

Prior law provided that upon admission of any person by emergency certificate to a treatment facility, the director of the treatment facility shall immediately notify the coroner of the parish in which the treatment facility is located of the admission, giving certain information as provided in prior law, if known.

Prior law, relative to St. Tammany Parish, provided, among other requirements, the following shall apply when a patient is transferred from another parish pursuant to an emergency certificate:

(1) The coroner shall be notified immediately following the execution of a second emergency certificate and shall conduct an independent examination within 72 hours as provided in prior law.

(2) Nothing in prior law shall be construed to authorize a period of commitment to exceed 15 days from the date and time the initial emergency certificate was executed in the parish of origin.

New law retains prior law for St. Tammany Parish and applies these provisions of prior law to the parishes of East Baton Rouge, Jefferson, Orleans, and Ouachita.

Prior law, relative to St. Tammany Parish, provided that when a patient is transferred from another parish pursuant to an emergency certificate, a second physician's emergency certificate may be executed by a physician at the admitting facility.

New law, applicable to the parishes of East Baton Rouge, Jefferson, Orleans, Ouachita, and St. Tammany, provides that when a patient is transferred from another parish pursuant to an emergency certificate, when appropriate, a second physician's emergency certificate shall be executed by a physician at the admitting facility.

Effective August 1, 2016.

(Amends R.S. 28:53(G)(7)(c)(i); adds R.S. 28:53(G)(8))

### **Intervention and Stabilization Units (Act 591)**

New law defines "intervention and stabilization unit" as a type of crisis receiving center in which a staff of mental health and behavioral health specialists provide a high level of screening and assessment to people experiencing mental health or behavioral health crises.

New law authorizes human services districts and authorities to establish intervention and stabilization units. New law provides that subject to appropriation therefor, a human services district or authority may establish and operate an intervention and stabilization unit in any parish that:

(1) has a population of more than 440,000 according to the latest federal decennial census, and

(2) experienced the closure of a hospital that had been operated by the LSU Health Care Services Division.

New law stipulates that for purposes of licensure, human services districts and authorities are authorized, but not required, to establish any intervention and stabilization unit as a Level III (freestanding) crisis receiving center.

New law provides that no intervention and stabilization unit shall be established by any human services authority or district unless and until the legislature specifically appropriates funding for this purpose, and that no human services authority or district shall divert any moneys appropriated to it for other purposes to establish or fund an intervention and stabilization unit.

(Adds R.S. 28:931 and 932)

## **TITLE 29: MILITARY, NAVAL, AND VETERANS' AFFAIRS**

### **State Veterans Cemetery Burial Fees (Act 154)**

New law authorizes a fee of \$745 for burial in a state veterans cemetery and allows the Dept. of Veterans Affairs to waive all or a part of the fee assessed for burial in a state veterans cemetery in circumstances of financial hardship.

Effective August 1, 2016.

(Amends R.S. 29:295(C))

## **TITLE 30: MINERALS, OIL, GAS AND ENVIRONMENTAL QUALITY**

### **Withdrawal of Running Surface Water (Act 248)**

Existing law allows a person or entity to enter into a cooperative endeavor agreement to withdraw running surface water with an initial term not to exceed two years.

Prior law prohibited any new cooperative endeavor agreement entered into for which an application was received by the Dept. of Natural Resources after Dec. 31, 2016. New law extends the date to Dec. 31, 2018.

Prior law required a cooperative endeavor agreement to withdraw running surface waters to terminate after Dec. 31, 2016. New law extends the date to Dec. 31, 2018.

Effective August 1, 2016.

(Amends R.S. 30:961(E))

### **Office of Conservation Fees (Act 277)**

Prior law authorized certain sizable, fixed fees collected by the office of conservation.

New law repeals prior law fees and authorizes a monthly fee payable to the office of conservation of 2¢ per barrel of exploration and

production waste delivered from the original generator of the waste to various facilities.

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

Effective August 1, 2016.

(Amends R.S. 30:21(B)(1))

### **Pipeline Inspection Fees (Act 435)**

New law changes the annual pipeline inspection fee from \$22.40 per mile to \$1 per service line. New law retains the prior law alternative fee of \$400 per pipeline facility, whichever is greater.

New law provides an annual safety inspection fee not to exceed \$44.80 per mile of pipeline used in a jurisdictional gas pipeline system, or \$800 per pipeline facility, whichever is greater, imposed on all distributors of jurisdictional gas which own or operate any jurisdictional gas gathering or transmission system. New law specifies that the fee is subject to annual review by the commissioner of conservation.

New law increases the annual inspection fee on hazardous liquid pipelines from not to exceed \$22.40 per mile or \$400 per pipeline facility, whichever is greater, to not to exceed \$44.80 per mile or \$800 per pipeline facility, whichever is greater. New law increases the commissioner's authorization in annually reviewing the fee amount to revise the fee from not to exceed \$22.40 to not to exceed \$44.80.

Effective August 1, 2016.

(Amends R.S. 30:560 and 706)

### **Well Transfers and Orphaned Oilfield Sites (Act 342)**

New law requires the commissioner of conservation to require that an operator identify the surface owner of lands on which a well site is located, no later than 30 days after the

issuance of an amended permit to transfer a well to another operator.

New law requires the assistant secretary to notify the surface owner of an orphaned oilfield site, at the address provided by the operator, that the site is declared orphaned.

Effective August 1, 2016.

(Amends R.S. 30:91(B)(1); adds R.S. 30:28(J))

### **DEQ Fees Increases (Act 451)**

New law increases maximums on fees for any application to the Dept. of Environmental Quality (DEQ) for accreditation by a commercial laboratory.

Existing law requires the requestor of a review of environmental conditions of a specified tract of immovable property to pay a minimum advance fee to the DEQ. New law increases the minimum advance fee from not to exceed \$1,500 to not to exceed \$1,650.

Existing law provides for an initial fee and an annual monitoring and maintenance fee for all permits, licenses, registrations, or variances. The fees are derived from a formula, developed by department rules, to equal the cost of annual maintenance, permitting, monitoring, investigation, administration, and other activities associated with the permits, licenses, registration, and variances. The formula cannot exceed the maximum amounts specified by law.

New law authorizes DEQ to increase various fees from the amounts in effect in the La. Administrative Code (LAC) on March 14, 2015, by specified percentages.

Existing law authorizes DEQ to collect a fee per ton of solid waste deposited in a construction and demolition landfill. New law increases the fee from 20¢ per ton to 25¢ per ton.

New law authorizes a fee to process a request for a declaratory ruling, not to exceed the maximum per hour overtime salary, including associated-related benefits, of a civil service employee of

the department per hour or portion thereof required to conduct the review, plus reasonable indirect costs calculated as a percentage of the hourly fee. The percentage shall be determined annually by agreement between the department and the EPA for use on grants and contracts. New law authorizes a minimum fee paid by a requestor of not less than \$1,500.

Existing law provides that all owners of registered motor fuel underground storage tanks shall pay a registration fee for each tank, which money is used for storage tank activities. New law increases the fee from \$54 to \$60.

New law increases fees paid into the Lead Hazard Reduction Fund.

New law increases the accreditation fees for training organizations.

New law increases the notification fees for contaminated buildings and soil as indicated:

Effective August 1, 2016.

(Amends R.S. 30:2011, 2014, 2195(B), 2351.59)

### **Underground Storage Tanks (Act 521)**

New law adds that a "bulk facility" may mean a broker, reseller, or other person that sells exclusively to another "bulk facility" and has registered and obtained a certificate from the Department of Environmental Quality (DEQ).

New law provides that "regulated substance" also includes any motor fuels as determined by the secretary of DEQ.

New law provides that if no specific date is determined, then the "date of release" is the date the release is reported to DEQ.

New law removes provisions that if used oil is determined to be a hazardous waste by the U.S. Environmental Protection Agency, that it is not included as a "motor fuel". New law provides that "motor fuels" may include any product, petroleum or petroleum blend, biofuel or any new fuel that may merge for the propulsion of

motor vehicles as determined by the secretary of DEQ. New law excludes liquid petroleum (LP) gas, compressed natural gas (CNG), and liquefied natural gas (LNG) from the definition of motor fuels.

Prior law prohibited any person after Jan. 1, 1996, from placing or dispensing a regulated substance into an underground storage tank that has not been registered with DEQ. New law removes the January 1, 1996 date and provides that the prohibition includes a person that does not have a current registration certificate.

New law provides that monies recovered from certain response actions and deposited in Tank Trust Fund may be used for loans to nonpublic persons or entities, for upgrading or improving underground storage tanks to a standard dictated or recommended by federal or state environmental laws, regulations, or directives.

Prior law required that beginning July 1, 2001, all interest monies earned by the Motor Fuels Underground Storage Tank Trust Fund be used for the closure of abandoned motor fuels underground storage tanks, assessment and remediation of property contaminated by abandoned motor fuel underground storage tanks.

New law removes the July 1, 2001, date and requires that monies earned by the Motor Fuels Underground Storage Tank Trust Fund and monies received from payments resulting from cost recovery efforts, also be used for loans to nonpublic persons or entities, for upgrading or improving underground storage tanks to a standard dictated or recommended by federal or state environmental laws, regulations, or directives.

Prior law provided that a site may be declared an abandoned motor fuel underground storage tank site if certain conditions are met. New law changes "site" to "tank" and authorizes, as an additional requirement, a determination by the secretary that DEQ action is the most timely and efficient way to address conditions at the site.

Prior law required that monies expended from the Tank Trust Fund for any approved costs must be spent only up to such sums as are necessary to satisfy federal petroleum underground storage tank financial responsibility requirements or \$1,500,000, whichever is greater. New law adds that the amount shall include any third-party claim arising out of the release of motor fuels from the tank.

Prior law prohibited the expenditure of funds from the Tank Trust Fund for new and used motor oil releases which occur prior to Sept. 6, 1991. New law allows the expenditure of funds if the secretary determines the release to have been from an abandoned motor fuel storage tank.

New law requires that all records from bulk facilities be maintained for four years and be available for inspection by DEQ.

Prior law provided for the use of certain fees and provides a cap when the fee balance equals or exceeds \$20 million. New law increases the fee balance cap from \$20 million to \$40 million and provides for the calculation of the unobligated balance in the fund.

Prior law provided that when the initial site assessment has not been completed within two years, the applicant has 90 days from the completion of the initial site assessment to submit the reimbursement application. New law removes this provision and requires initial assessments to be initiated within two years from receipt of a request for assessment made by the secretary, to be eligible for disbursement from the Tank Trust Fund.

Prior law provided that the owner shall pay the amount required toward the satisfaction of certain third party judgments, and after payment has been made, the fund will pay the remainder of said judgment. New law removes this provision.

New law provides the criteria to meet the EPA's financial requirements.

New law allows the secretary or his designee to exclude any owner from coverage by the Tank Trust Fund who has consistently failed to comply with the requirements outlined in prior law.

New law provides that the secretary may authorize the use of any monies obtained in cost recovery actions or from interest on the Tank Trust Fund to provide loans to nonpublic persons or entities, for upgrading or improving underground storage tanks to a standard dictated or recommended by federal or state environmental laws, regulations, or directives.

Effective August 1, 2016.

(Amends R.S. 30:2194, 2194.1, 2195, 2195.2, 2195.3, 2195.4, 2195.8, 2195.9(B), 2195.10(C), 2195.12(A); adds R.S. 30:2194(B)(8)(c) and 2195.12(E))

#### **Unit Wells (Act 524)**

Prior law authorized an owner drilling, intending to drill, or who has drilled a unit well, a substitute unit well, an alternate unit well, or a cross-unit well on any drilling unit to notify all other owners in the unit prior to the actual spudding of any such well, of the drilling or the intent to drill, and to give each owner an opportunity to elect to participate in the risk and expense of such well. New law eliminates the notification provision to all other owners in the unit prior to the actual spudding of the well.

Prior law required the notice contain the authorization of expenditure form, as of 120 days of the notice, the proposed location and depth, estimated ownership or percentage of well participation, and data of the proposed well. New law provides for the notice for wells drilled prior to the notice to include the actual cost, location, depth, and various data of the well.

New law requires the payment of estimated drilling costs be deemed timely if received by the drilling owner within 60 days of the spudding of the well or the receipt by the notified owner of the notice provided for in prior law, whichever is later.

Prior law provided for a drilling unit being created around certain wells and for a drilling unit being revised and specified that the owners will have 60 days from the order creating the new or revised unit to participate in the well. New law removes the 60-day provision.

New law provides that failure of the drilling owner to provide written notice as required by prior law to an owner will not affect the validity of the written notice properly provided to any other owner in the unit.

Effective upon signature of the governor (June 13, 2016).

(Amends R.S. 30:10)

#### **Well Plugging (Act 526)**

Prior law granted the commissioner of conservation the discretionary authority to require reasonable bond with security for the performance of the duty to plug wells and to perform site cleanup. New law removes this authority and authorizes transferrable plugging credits, in lieu of the bond with security, in order to promote the plugging of orphaned oilfield sites and oilfield sites that have been inactive for at least five years. A plugging credit shall be issued for 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.

New law 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.

New law requires the commissioner to make any rules 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. The rules shall except:

(1) Wells exempt prior to September 1, 2015, that remain with the operator of record as of that date.

(2) Wells utilizing plugging credits pursuant to new law.

(3) Wells exempt due to having provided the required financial security in order to obtain a drilling permit.

Effective upon signature of the governor (June 13, 2016).

(Amends R.S. 30:4(C)(1)(a); adds R.S. 30:4(R))

### **Oil Funds (Act 582)**

New law dedicates 50% of any annual assessment paid by an operator who chooses not to plug a well classified as inactive for deposit into the Oil and Gas Regulatory Fund, with the remainder being deposited into the Oilfield Site Restoration Fund.

Effective upon signature of the governor (June 17, 2016).

(Amends R.S. 30:21(B)(2)(a); adds R.S. 30:86(D)(7))

### **Waste Tire Program (Act 633)**

New law adds spare tires to the definition of tire.

New law adds all-terrain vehicle and utility terrain vehicle to the definition of "motor vehicle."

New law adds tires used on all-terrain vehicles and utility terrain vehicles to the definition of "passenger/light truck/small farm service tire."

New law authorizes the secretary to impose a delinquent fee of 10% of the unpaid fee or \$25, whichever is greater, on any person failing to timely remit waste tire fees.

New law also imposes a delinquent fee of \$25 upon any person failing to timely submit a required monthly waste tire fee report.

Effective Oct. 1, 2016.

(Amends R.S. 30:2412; adds R.S. 30:2418(O)(5))

### **Drilling Permits -- Financial Security (Act 634)**

New law requires that an applicant provide financial security for a permit to drill or to amend a permit to drill for a change of operator in a form acceptable to the commissioner.

New law 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.

New law requires that an applicant to amend a permit to drill for a change of operator provide the security as required by new law or by establishing a site specific trust account prior to the operator change.

New law 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 no more than \$2 per foot.

New law sets the financial security of wells located on land pursuant to schedule that is based on the number of wells.

New law provides for exceptions from the financial security requirements for wells that were exempt before Sept. 1, 2015 and have the same operator or immediate family, orphaned wells or wells held by another operator transferred to a good history with the office, and wells where the operator has plugged a like well from the orphaned list pursuant to an agreement with the office.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 30:4.3)



### **Orphan Well Trust Accounts (Act 583)**

New law creates oilfield site trust accounts for certain orphaned well sites.

New law provides that an orphan well shall mean an oil or gas well that is designated as part of an orphaned oilfield site as of August 1, 2016, and thereafter and that has had no reported production for a period of greater than two years immediately prior to the production of oil, gas, or condensate.

New law provides that after satisfying the provisions of the Constitution of Louisiana relative to the allocation and distribution of severance tax proceeds and as further provided in statute, the remaining portion of the monies credited to the state treasury derived from the severance tax levied on oil, gas, and condensate from an orphaned well shall be credited to the associated site-specific trust account.

New law provides that upon full funding of the associated site-specific trust, all monies remaining in the account shall again be credited in full to the state treasury. So long as the conditions are met relative to the funding of the site-specific trust account, the assistant secretary shall not require additional financial security for the well.

New law provides that in the event of new production from a formerly orphaned well, a site-specific trust account shall be established to separately account for each such site. Once established, the site-specific trust account shall survive until completion of site restoration of the associated oilfield site.

New law provides that when establishing a site-specific trust account, the assistant secretary shall require an oilfield site restoration assessment to be made. The oilfield site restoration assessment shall be conducted by approved site assessment contractors appearing on a list approved by the commission or acceptable to the commission. The oilfield restoration assessment shall specifically detail the site's restoration needs and shall provide an estimate of the restoration costs needed to

restore the oilfield site based on the conditions existing at the time the site-specific trust account is established. The funds in each trust account shall remain the property of the commission. In the event that the site-specific trust account is not funded through the payment of the severance tax, then the assistant secretary shall require financial security.

New law provides that for transfers of oilfield sites that occur subsequent to the formation of site-specific trust accounts but prior to the end of their economic life, the assistant secretary and the acquiring party shall again redetermine cost. The balance of any site-specific trust account at the time of transfer shall remain associated with the oilfield site and shall be a factor in the redetermination.

New law provides for the distribution of funds associated with the site for unusable oilfield sites, after site restoration has been completed and approved by the assistant secretary. New law provides for disbursement of monies to the state general fund and, in the event the responsible party has personally funded the site-specific trust account, in whole or in part, then to the responsible party in proportion to their percentage of funding.

New law provides for the distribution of certain collections of severance taxes to site-specific oilfield site trust accounts for orphaned wells.

Effective upon signature of the governor (June 17, 2016).

(Amends R.S. 47:645(B); adds R.S. 30:88.1)

### **Oilfield Site Restoration Commission (Act 666)**

Existing law creates the Oilfield Site Restoration Commission (commission) within the office of the secretary of the dept.

New law authorizes an issuer, on behalf of the commission and at the direction of the secretary, 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.

Existing law imposes oilfield site restoration fees as follows: 1½¢ per barrel on oil and condensate and up to 3/10ths of 1¢ per 1,000 cubic feet on gas. Existing law additionally provides for a reduced fee for reduced-rate production, such as stripper wells and incapable wells, which is a proportional reduction based on the reduction from the full rate severance tax.

New law 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 1½¢.
- (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¢.

New law retains reduced rates in existing law for stripper wells and incapable wells and retains existing law fee on gas.

New law 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 site-specific trust accounts and bonds authorized by new law shall also not be counted in determining the balance of the Fund.

New law requires one million dollars or 20% of the amount appropriated to the Fund, whichever is less, from the Fund be used to plug orphaned wells drilled less than 3000 ft. in the Shreveport and Monroe office of conservation districts for three fiscal years beginning FY 2016-2017 and through the end of FY 2018-2019. However, these monies are subject to being disbursed and expended for any costs associated with response and emergency as provided by existing law.

Existing law limits the liability or responsibility of the commission or the state to pay for site restoration beyond the Fund. New law adds to the amount of liability in existing law to include the funds established from the issuance of bonds.

Effective June 17, 2016.

(Amends R.S. 30:82, 84(A)(1), 86, 87, and 95(A); Adds R.S. 30:83(F)(2), and 83.1)

## **TITLE 31: MINERAL CODE**

### **Mineral Rights in Land Acquired by Government (Act 60)**

Present law provides that when land is acquired from any person by an acquiring authority through act of sale, exchange, donation, or other contract, or by condemnation or expropriation, and a mineral right is reserved, prescription of the mineral right is interrupted.

New law adds property "appropriated" by an acquiring authority.

(Amends R.S. 31:149(B))

## **TITLE 32: MOTOR VEHICLES AND TRAFFIC REGULATION**

### **Death and Vehicle Collisions (Act 104)**

Old law required a coroner to present a report within five days to the Dept. of Public Safety and Corrections and to the La. Hwy. Safety Commission regarding the death of any person as a result of an accident involving a motor vehicle.

New law increases from five days to 60 days and replaces the word "accident" with "collision".

Old law required every hospital to notify the coroner of the parish in which it is located of any death occurring in the hospital resulting from injuries sustained in a motor vehicle accident. New law repeals this.

Effective August 1, 2016.

(Amends R.S. 32:398(H))

#### **Compulsory Car Insurance (Act 197)**

Prior law, relative to compulsory motor vehicle liability security, required the owner or operator of a motor vehicle on a state public highway to have within the vehicle a document evidencing that the vehicle is in compliance with law for compulsory motor vehicle liability security.

New law prohibits issuance of a citation resulting in a penalty, fine, or fee for failure to have proof of compulsory motor vehicle liability security 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.

Effective August 1, 2016.

(Amends R.S. 32:863.1(A); adds R.S. 32:863.1.1)

#### **New Orleans Traffic Control Officers (Act 247)**

New law authorizes the superintendent of police in the city of New Orleans to contract with or employ traffic control officers. New law provides that such officers may not issue traffic citations and requires the NOPD to establish a training program for such officers.

Effective August 1, 2016.

(Adds R.S. 32:5(C))

#### **Lake Fausse Pointe State Park (Act 260)**

New law authorizes a person with a valid driver's license and liability insurance to operate a golf cart between sunrise and sunset on the roadways within Lake Fausse Pointe State Park.

Effective August 1, 2016.

(Adds R.S. 32:127.3).

#### **Vehicle Weight Limits (Act 279)**

Existing law provides that the total gross weight of any vehicle or combination of vehicles shall not exceed a certain amount.

New law provides an exception to existing law that allows for a vehicle, if operated by an engine fueled primarily by compressed or liquified natural gas, to exceed this limitation by up to 2,000 lbs.

New law specifies that the weight exception provided in new law applies to all state roads and interstate highways per the exemption expressly permitted by federal law.

Effective August 1, 2016.

(Adds R.S. 32:386(L))

#### **Motor Vehicle Commission and Dealers (Act 288)**

Existing law provides relative to delivery of certificate of title to a purchaser of a vehicle. New law adds provisions relative to the term "endorsement". New law contains provisions relative to circumstances of release and cancellation of a lien.

Existing law empowers the Louisiana Used Motor Vehicle Commission (commission) to take possession of certificates of title from used motor vehicle dealers in certain circumstances. New law allows the commission to also distribute those titles to the rightful owners. New law expands the authority of the commission to take possession of certificates of title by adding floor plan financiers or other persons holding a security interest relative to a used motor vehicle who has failed or refused to provide a certificate of title to a bona fide retail purchaser in actual good faith in accordance with existing law.

New law further empowers the commission to take any action necessary to obtain and deliver a certificate of title to a retail purchaser in actual good faith, including instituting or participating in any legal action to obtain a certificate of title

and endorsing a certificate of title on behalf of any used motor vehicle dealer who either refuses or is unavailable to sign or endorse the certificate of title. New law also entitles the commission to an award of reasonable attorney fees and court costs to be paid by the individual or entity responsible for delivery of the certificate of title in the event that the commission institutes or participates in any legal action for the purposes of new law.

Prior law required certain representatives of used motor vehicle dealerships to include proof of attending an educational seminar but provides an exception for dealers licensed prior to 2003. New law removes the exception.

Existing law requires any dealer who submits a late renewal application to pay a penalty of \$100 to the commission. New law authorizes the commission to also assess against the dealer a penalty, fine, or cost for operating without a license in addition to the \$100 late renewal application penalty.

Prior law established a schedule indicating the bond requirement amounts imposed by the commission on every applicant for licensure or renewal of license. New law declares that every applicant shall deposit with the commission a bond in the amount of \$50,000.

New law removes all requirements relative to the furnishment of the bond, but retains the portion of existing law that requires the bond to be with a commercial surety authorized to do business in the state and be approved by the commission.

Existing law establishes the period for which the bond shall be furnished and requires a new bond to be furnished at the beginning of each new license period. New law clarifies that the aggregate liability of the surety in any calendar year shall in no event exceed \$50,000.

Existing law establishes the grounds whereby the commission may revoke or suspend, issue a fine or penalty, or enjoin a licensee. New law removes the references to "engaging in a practice of" and clarifies that any single event of

an enumerated act may be deemed grounds. New law adds, as a ground, failing to comply with existing law.

Existing law enumerates a nonexclusive list of advertising deemed to be false, misleading, or unsubstantiated. New law adds advertising a down payment without including all restrictions or limitations in the same size lettering.

Existing law restricts purchase agreements by requiring pre-delivery sale disclosure statements to include a statement regarding the implications of a consumer withdrawing from a purchase agreement. New law provides that a customer shall be considered as having withdrawn from an agreement if the customer intentionally provided false or fraudulent information to the dealer in connection with the transaction.

Effective August 1, 2016.

(Amends R.S. 32:783, 791, 792, 796; adds R.S. 32:705(D))

### **Commercial Driver's License Skills Tests (Act 293)**

Present law provides the Dept. of Public Safety and Corrections, public safety services (PSS), may contract with or license any person or business to administer skills tests.

New law requires a third party tester or third party examiner with whom PSS 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.

New law 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 PSS to operate as a third party tester or a third party examiner or is currently licensed by PSS to operate as a third party tester or a third party examiner.

New law authorizes PSS 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 PSS or to a third party tester or a third party examiner who is operating in violation of law.

(Amends R.S. 32:408.1)

#### **Vehicle Inspection Fees (Act 365)**

Existing law provides for motor vehicle inspections and the fees for such inspections. New law provides for an inspection fee of \$20 for student transportation vehicles.

New law requires that the adjustment of headlights be included in the inspection at no additional cost.

Effective January 1, 2017.

(Adds R.S. 32:1306(C)(6))

#### **Ready-Mix Concrete Trucks (Act 371)**

Existing law authorizes ready-mixed concrete trucks to exceed the maximum permissible gross weight, without penalty, under certain conditions.

New law extends the termination date in existing law for two years from July 31, 2016, to July 31, 2018.

Effective August 1, 2016.

(Amends R.S. 32:388(B)(1)(b)(iv))

#### **Driver's License Designation (Act 394)**

New law requires, upon request and without cost, the designation "100% DAV" on a Louisiana driver's license and special identification card upon presentation of specified evidence.

Effective August 1, 2016.

(Adds R.S. 32:412(N) and R.S. 40:1321(O))

#### **Driver's License Suspension or Denial (Act 366)**

Existing law requires that upon suspension or denial of a license to drive due to impairment related offenses, the Dept. of Public Safety and Corrections shall immediately notify the person in writing and upon his request shall afford him an opportunity for a hearing.

Existing law provides that after a person has exhausted his remedies with the Dept. of Public Safety and Corrections, he may file a petition in the appropriate court for a review of the final order of suspension or denial.

New law requires the licensee to serve the department with a copy of the petition and summons. New law specifies that upon receipt of a copy of the petition for review, the department shall issue the licensee driving privileges, which are valid until the decision on the petition for review is final. New law authorizes the court, on its own motion, or on the motion of either party, to modify or vacate such driving privileges upon a showing of good cause.

Existing law provides that upon the court's review, it may exercise any action it deems necessary under the law, including ordering the department to grant the person restricted driving privileges. New law limits the authority of the court to ordering only noncommercial driving privileges.

Effective August 1, 2016.

(Amends R.S. 32:668(C))

#### **OMV Fees & Installments (Act 397)**

Present law requires the Dept. of Public Safety and Corrections, office of motor vehicles (OMV), to collect certain fees, penalties, and fines. Present law does not authorize or prohibit the OMV from accepting partial payments on these outstanding amounts.

New law requires the OMV enter into installment agreements with eligible persons to

pay outstanding fines, penalties, and fees owed to the OMV. New law regulates such installment agreements in great detail, including:

New law permits the commissioner of the OMV to grant longer payment terms for amounts of \$5,000 or more owed based on proof of income indicating a debtor's financial limitations to pay within 60 months.

New law authorizes the Dept. of Public Safety and Corrections, public safety services, to authorize a third party, including but not limited to the Dept. of Revenue, office of debt recovery, to provide services for the administration and collection of payments due pursuant to installment agreements entered into by a debtor and the OMV pursuant to proposed law.

New law permits any authorized third party to collect a transaction fee not to exceed \$3 for each payment made pursuant to an installment agreement.

New law provides that an authorized third party may charge fees authorized by present law relating to electronic transactions to be completed pursuant to new law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 32:8(A)(3) and (B); adds R.S. 32:429.4 and R.S. 47:1676(L))

#### **Driver's License Skills Test (Act 440)**

Prior law required results of skills test certificates for certain classes of driver's licenses to be submitted to the Dept. of Public Safety and Corrections and fully describe on the face of the certificate the vehicle in which the skill test was administered.

New law deletes prior law and instead requires results of skills tests of applicants for Class "A", "B", or "C" driver's licenses to be submitted to the Dept. of Public Safety and Corrections electronically.

Effective August 1, 2016.

(Amends R.S. 32:408(B))

#### **DOTD Special Vehicle Permits (Act 441)**

New law authorizes the secretary of the Dept. of Transportation and Development to allow vehicles issued certain special permits to operate on interstate highways at night if requested by the owner or operator of the vehicle.

Effective August 1, 2016.

(Amends R.S. 32:387(A))

#### **Seat Belt Fines (Act 445)**

New law increases the fines for violating the compulsory seat belt laws.

Effective August 1, 2016.

(Amends R.S. 32:295.1(G)(1))

#### **Drivers' Education (Act 317)**

New law repeals prior drivers' education law.

New law requires any person who is at least of age to participate in the classroom instruction portion of a driver education course, driver training program, or a prelicensing training course to apply to the Dept. of Public Safety and Corrections, public safety services (PSS), for a Class "E" temporary instructional permit prior to enrolling in any driver education course, driver training program, or a prelicensing training course.

New law requires a person to possess a Class "E" temporary instructional permit in order to enroll in a driver education course, driver training program, or a prelicensing training course.

New law limits a person with a Class "E" temporary instructional permit to operating a motor vehicle on the public highways and streets of this state only when the permit holder is accompanied by an instructor of driver education and traffic safety, and while actually operating a motor vehicle during the behind-the-

wheel instruction or during the administration of the skills test.

New law requires the holder of a Class "E" temporary instructional permit to be in possession of the permit during the period of its validity and to present such permit for examination when so requested by any law enforcement officer or representative of PSS.

New law requires that upon successful completion of a driver education course, driver training program, or a prelicensing training course and the knowledge test, a person shall surrender a Class "E" temporary instructional permit to PSS and apply for the issuance of an age appropriate learner's license.

New law prohibits PSS from charging a fee for a learner's license issued in connection with the surrender of a Class "E" temporary instructional permit.

New law exempts participants in a driver education course, driver training program, or prelicensing course administered in conjunction with a National Guard Youth Challenge Program from obtaining the Class "E" temporary instructional permit required by new law. New law authorizes such person to operate a motor vehicle on public highways without a Class "E" temporary instructional permit if the person is accompanied by an instructor of driver education and safety.

Effective August 1, 2016.

(Adds R.S. 32:402.1(E); Repeals R.S. 32:422(B) and 422.1)

### **Autocycles (Act 326)**

New law changes the definition of "autocycle" to mean a three-wheeled motorcycle on which the driver and all passengers ride in either a completely enclosed seating area or in a side-byside seating area that is equipped with a rollbar or roll cage, safety belts for all occupants, and is designed to be controlled with a steering wheel and pedals.

New law changes circumstances under which persons in an autocycle must wear a safety helmet or obtain a special endorsement on their driver's license.

Effective August 1, 2016.

(Amends R.S. 32:1(1.1), 190(D), 401(2) and 408(C)(3))

### **Highways (Act 318)**

With respect to highway regulatory provisions, new law defines "autonomous technology", "driving mode", "dynamic driving task", "operational", "strategic", and "tactical".

Effective August 1, 2016.

(Adds R.S. 32:1(1.2))

### **Red Light Cameras (Act 348)**

New law requires local municipal or parish governing authorities to post signs indicating that a red light camera is present within 500 feet of each red light camera.

New law provides that the failure of a municipal or parish authority to comply shall prohibit the use of any photographic or video images collected by the red light camera to impose or collect any civil or criminal fine, fee, or penalty by or on behalf of the municipal or parish authority.

New law provides that in any proceeding to collect a civil or criminal fine, fee, or penalty on behalf of the municipality or parish there is a rebuttable presumption that the signs were posted as required.

Effective August 1, 2016.

(Adds R.S. 32:44)

### **Driver Education (Act 336)**

New law requires driver education and prelicensing training courses to include course content relative to trailer safety.

New law requires that the road knowledge test include knowledge of trailer safety.

Effective August 1, 2016.

(Amends R.S. 32:402.1, 407, and 408)

### **Distracted Driving Penalties (Act 472)**

New law significantly increases penalties for (1) operating a motor vehicle upon any public road or highway of this state while using a wireless telecommunications device to write, send, or read a text-based communication or to post to a social networking site; (2) holding a Class "E" learner's license or intermediate license and operating 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 wireless telecommunications device is a hands-free wireless telephone; (3) being 17 years of age or younger and operating 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; and (4) using any wireless telecommunications device while operating a motor vehicle upon any public road or highway during the posted hours within a school zone on a public road or highway.

Effective upon signature of the governor (June 13, 2016).

(Amends R.S. 32:300.5, 300.6, 300.7, and 300.8; adds R.S. 15:571.11(A)(4))

### **REAL ID Driver's Licenses (Act 496)**

New law requires the Department of Public Safety and Corrections (DPSC) to provide all applicants for a Louisiana driver's license, the option of receiving a driver's license that is REAL ID compliant (REAL ID license) as required by the REAL ID Act of 2015, federal P.L. 109-13, and federal rules adopted as of January 1, 2016.

New law requires that if the applicant opts for a REAL ID license, is eligible for a Louisiana

driver's license, and meets all requirements of the U.S. Department of Homeland Security for a REAL ID compliant credential, then DPSC is to issue a driver's license which bears the approved security marking of the U.S. Department of Homeland Security.

New law requires that subsequent changes to REAL ID license standards in effect as of January 1, 2016, be implemented only if approved by legislature by favorable vote of majority of elected members.

New law provides that if an applicant who is eligible for a Louisiana driver's license opts out of applying for the REAL ID license, then DPSC shall issue a driver's license which indicates that the license is not REAL ID compliant and DPSC shall not require that the applicant comply with REAL ID requirements that were not required by the state as of January 1, 2016, nor require the applicant to submit to a facial image capture in connection with his application prior to determining the applicant's eligibility for a driver's license.

New law provides that if the applicant opts not to apply for a REAL ID license, then DPSC is prohibited from copying, scanning, maintaining, or sharing a copy of the applicant's documents proving his identity.

New law provides that an eligible person electing to obtain a REAL ID license prior to their license renewal, may be issued a REAL ID license at the cost of a duplicate license.

New law requires DPSC, upon request of any applicant for a driver's license or special identification card, to record and retain the applicant's name, date of birth, certificate numbers, date filed, and issuing agency in lieu of retaining an image or copy of the applicant's birth certificate.

New law prohibits DPSC from participating in any programs that exchange or allow the access of facial biometric data of La. citizens obtained in the issuance or renewal of a La. driver's license to the agencies, governments, or contractors of other states or nations without a



warrant or a court order issued for access to that data.

New law provides that upon request of any person, any personal identifying source documents or photographs of the person obtained by the DPSC, or a contractor, in the process of a person applying for or renewing a driver's license between July 7, 2008, and the effective date of new law that were not required by state law to be captured by the DPSC or a contractor as of July 7, 2008, shall be removed and purged from DPSC and contractor databases and systems and all photographs of the person obtained by DPSC in the possession of a contractor are to be purged from the database or system of that contractor.

New law authorizes DPSC to provide an option to issue a special identification card (SPID) that is compliant with standards of the REAL ID Act of 2015, federal P.L. 109-13, and federal rules adopted as of January 1, 2016. New law requires that if the applicant opts for a SPID and meets all requirements of the U.S. Department of Homeland Security for a REAL ID compliant credential, then DPSC is to issue an SPID which bears the approved security marking reflecting that such credential meets REAL ID standards. New law prohibits DPSC from issuing a REAL ID compliant driver's license to a person who has been issued a REAL ID SPID.

New law requires that the applicant for a REAL ID license or a SPID is not required to comply with any REAL ID requirements not required by the state as of January 1, 2016, nor required to submit to facial image capture in connection with his application prior to determining if the applicant is eligible for a special identification card. New law prohibits DPSC from copying, scanning, maintaining, or sharing a copy of the applicant's documents proving his identity and which are obtained from the person applying for issuance or renewal of the special identification card.

New law requires that an applicant for a SPID be informed that he is not required to be issued a REAL ID compliant SPID and may be issued a

special identification card that is not REAL ID compliant.

New law provides that an eligible person electing to obtain a REAL ID compliant SPID prior to its renewal, may be issued a REAL ID compliant SPID at the cost of a duplicate license.

Prior law (Act 807 of 2008 R.S.) directed the DPSC, including the office of motor vehicles, not to implement the provisions of the REAL ID Act. New law repeals these provisions.

Prior law (Act 151 of 2010 R.S.) directed the DPSC, including the office of motor vehicles, not to implement the provisions of the PASS ID Act. New law repeals these provisions.

Effective upon signature of governor (June 14, 2016).

(Amends R.S. 32:409.1 and 410 and R.S. 40:1321; repeals Act 807 of 2008 R.S. and Act 151 of 2010 R.S.)

#### **Transfer of Total Loss Vehicles (Act 456)**

Existing law provides that no person shall transfer ownership of a motor vehicle, to any purchaser, without delivery of a certificate of title that has been executed in the presence of a notary public or two witnesses.

New law specifies that a document transferring ownership of a total loss motor vehicle to an insurance company by the owner's signature is a valid endorsement.

Effective August 1, 2016.

(Amends R.S. 32:705(B))

#### **REAL ID Driver's License (Act 505)**

Old law directed the Dept. of Public Safety and Corrections, including the office of motor vehicles, not to implement the provisions of the REAL ID Act. New law repeals old law.

Old law directed the Dept. of Public Safety and Corrections, including the office of motor vehicles, not to implement the provisions of the PASS ID Act. New law repeals old law.

New law requires that the department provide for the option of the issuance of special identification cards that are compliant or not compliant with the standards of the REAL ID Act of 2005 and federal rules adopted pursuant thereto as of Jan. 1, 2016 in the manner set forth in new law.

New law specifies that a person can only be issued a REAL ID compliant special identification card. New law prohibits the issuance of REAL ID compliant driver's licenses.

New law provides that any person applying for a special identification card may elect to apply for a special identification card that complies with the standards of REAL ID. New law specifies that if that person is eligible for a special identification card and meets all requirements of the U.S. Dept. of Homeland Security for a REAL ID compliant credential, that person shall be issued a special identification card which bears a U.S. Dept. of Homeland Security approved security marking reflecting that such credential meets REAL ID standards.

New law provides that if a person applying for a driver's license does not elect to apply for a special identification card that complies with REAL ID standards and that person is otherwise eligible to be issued a special identification card pursuant to present law, that person shall be issued a special identification card which indicates the special identification card is not in compliance with REAL ID.

New law provides that if a person elects not to apply for a REAL ID compliant special identification card, the department shall not require the applicant to comply with any of the REAL ID requirements which were not required by the state as of Jan. 1, 2016.

New law requires that compliance with REAL ID referenced in new law be limited to those standards in effect as of Jan. 1, 2016.

New law specifies that any subsequent changes or additions to federal laws or rules for implementation of REAL ID can only be implemented by the state if such changes are approved by the legislature by a favorable vote of a majority of the elected members of each house.

New law provides that any eligible person electing to obtain a special identification card which bears a U.S. Dept. of Homeland Security approved security marking reflecting that such credential meets REAL ID standards prior to the renewal date of his special identification card may be issued a REAL ID compliant card at the cost of a duplicate card.

(Amends R.S. 32:410; adds R.S. 40:1321(O); repeals Act No. 807 of the 2008 R.S. and Act No. 151 of the 2010 R.S.)

### **Motor Vehicles and Marine Products (Act 530)**

New law revises definition of "marine product" to exclude a marine motor designed primarily for recreational or commercial use on water.

New law changes the composition of La. Motor Vehicle Commission.

Prior law provided that it is a violation of law for a manufacturer, distributor, wholesaler, distributor branch, factory branch, converter or officer, agent, or other representative, to sell or offer to sell a new or unused motor vehicle or recreational product directly to a consumer except as provided by prior law.

New law removes "recreational product" from prior law prohibition.

Prior law provided that it is a violation of law for a manufacturer, distributor, a wholesale, distributor branch, or factory branch of marine products or any officer, agent, or other representative thereof to sell or offer to sell a

new or unused marine product directly to a consumer except as provided in prior law or to compete with a licensee in the same-line makes, models, or classifications operating under an agreement from a manufacturer, with certain exceptions.

New law removes provisions of prior law and exceptions relative to competing with a licensee operating under an agreement with a manufacturer.

Effective August 1, 2016.

(Amends R.S. 32:1252(27), 1253, 1261, and 1270.1)

### **School Bus Passing (Act 535)**

New law specifies that a highway with one lane in each direction and with a dedicated two-way left-turn lane requires the driver of a vehicle to stop upon meeting or passing a school bus.

Effective August 1, 2016.

(Amends R.S. 32:80(C))

### **Auto Title Companies (Act 606)**

Old law required an annual fee of \$200 to be collected from a person seeking to contract with the Dept. of Public Safety and Corrections, office of motor vehicles, prior to the person commencing to act as an auto title company, and an additional \$50 for each additional location. New law changes the fee to \$400 biennially and \$100 for each additional location.

Old law required every contract between Dept. of Public Safety and Corrections, office of motor vehicles, and an authorized auto title company, to expire the first day of June following the year in which such license was issued. New law requires every such contract to expire the first day of June two years following the year in which such license was issued, and authorizes the department to automatically renew such license.

Old law required each auto title company to execute a \$10,000 surety bond for one location and a \$20,000 surety bond for multiple locations. New law requires a \$100,000 surety bond for only one location and a \$125,000 surety bond for multiple locations.

New law exempts auto title companies under contract on the effective date of the Act from the increased surety amounts until their contract renewal date.

New law extends contracts executed prior to the effective date of the Act for one additional year without need for amendment to the contract upon payment of the required \$200 fee plus an additional \$50 fee for each additional location.

(Amends R.S. 32:735 and 736)

### **Economic Hardship Driver's License (Act 607)**

Prior law prohibited the Dept. of Public Safety and Corrections, office of motor vehicles (OMV), from issuing an economic hardship license to a person whose driver's license was suspended or had not been renewed because of delinquent state taxes.

New law requires the OMV to issue an economic hardship license to such a person. New law specifies that the economic hardship license is valid for one year or until such time as the individual has paid or made payment arrangements relative to his state tax delinquency, whichever is shorter.

Effective August 1, 2016.

(Amends R.S. 32:414(R)(3))

### **Driver's Licenses (Act 625)**

New law authorizes a licensee to have a digitized driver's license provided by the Dept. of Public Safety and Corrections, office of motor vehicles, as an alternative to a physical license.

New law defines digitized driver's license as a data file available on any mobile device which

has connectivity to the internet through an application that allows the mobile device to download the data file from the department or an authorized representative of the department, that contains all of the data elements visible on the face and back of the physical license, and that displays the current status of the license. New law provides that a copy, photograph, or image of a driver's license not downloaded through the application on a mobile device is not a valid digitized driver's license.

New law prohibits issuance of a citation, in connection with a traffic stop or checkpoint, for driving a motor vehicle without a valid license, if the person presents a digitized driver's license to a law enforcement officer in lieu of a physical driver's license.

New law clarifies that a person may be required to produce a physical driver's license in connection with requests for identification not associated with traffic stops or checkpoints, and that failure to produce such identification when requested will subject such person to all the applicable laws and consequences for failure to produce a driver's license.

New law specifies that display of a digitized driver's license does not serve as consent or authorization for a law enforcement officer, or any other person, to view, search, or access any other data or application on the mobile device, and requires that a law enforcement officer promptly return the mobile device to the person once he has had an opportunity to verify the identity and license status.

New law provides for a fee to install the application to display a digitized driver's license, as provided in new law, not to exceed \$6.00.

Prior law required the secretary of the Dept. of Public Safety and Corrections to issue evidence of renewal of Class "D" or "E" drivers' licenses, which was to be affixed to the previously issued license to indicate the date the license expires in the future, if the license was renewed by mail or electronic commerce. New law requires the secretary to issue a new license if a license is renewed by mail or electronic commerce.

Effective August 1, 2016.

(Amends R.S. 32:411 and 412(D)(6))

### **Hazardous Material Violations (Act 632)**

Present law provides that in determining the amount of the penalty to be imposed for violation of law relating to the transportation, loading, unloading, or storage of hazardous material, the Dept. of Public Safety and Corrections (DPS&C) shall take into account various specified factors.

New law adds that DPS&C shall also take into account the amount of measurable harm, the potential for measurable harm, or the total lack of harm resulting from the violation.

New law prohibits a person from being cited for violating careless handling law when that person or his representative reports an incident involving a hazardous material that does not meet the reporting criteria as set forth in present law.

(Amends R.S. 32:1512; adds R.S. 32:1520(C))

### **Electronic Communications (Act 665)**

Prior law defined the term "exchange access facilities" to mean all lines, provided by the service supplier for the provision of local exchange service, as defined in existing general subscriber services tariffs. New law changes prior law and additionally provides that the term shall include all lines as defined in federal law (47 C.F.R. 9.3), as interconnected Voice over Internet Protocol (VoIP).

New law redefines the prior law definitions of "service supplier" and "service user".

Prior law provided that the Federal Communications Commission (FCC) has issued rulings requiring that suppliers of cellular and other forms of wireless telecommunications services capable of accessing the 911 emergency telephone number provide certain enhancements to their services when requested by a communications district. Prior law provided that

these enhancements automatically provided the number and location of the wireless caller to the communications district when a caller accesses 911. New law deletes prior law.

New law provides that the FCC has outlined a plan that will require the public safety community to field a new generation of 911 emergency call services which will allow the use of additional and widely used digital media to contact Public Safety Answering Points (PSAPs). New law provides that Next Generation 911 (NG911) will permit the public use of text messages, data, videos, as well as voice to transmit emergency information to the servicing PSAP and will allow this data to be further shared with first responders for their use en route to and at emergency scenes. New law requires specific technological enhancements to be made within each PSAP in order to receive and utilize this information from wireless devices.

Prior law defined the term "wireless". New law removes prior law and provides that such term shall be as defined by provisions of federal law (47 C.F.R. 20.3).

Prior law defined the term "wireless E911 service" to mean E911 service that provides automatic number identification of wireless subscribers as required by the FCC order. New law removes prior law.

Existing law authorizes each communications district to levy a service charge on commercial mobile radio service (CMRS).

New law provides that the service charge shall not exceed \$1.25 per month per connection or the rate the district levies or is authorized to levy on Aug. 1, 2016, whichever is higher.

New law provides that if the district levies an emergency telephone service charge, tax, charge, surcharge or fee on Aug. 1, 2016, then it is not required to adopt a new ordinance or resolution except to change the rate thereof.

Prior law provided that any person or entity otherwise exempt from taxation shall be exempt

from the service charge. New law removes prior law.

New law requires all revenues collected from the assessment of 911 surcharge fees to be used for the sole purpose of providing 911 emergency response communications services and operations. New law prohibits diversion of the revenues for use by any other entity or for any other purpose other than those outlined in the existing law and new law.

Effective August 1, 2016.

(Amends R.S. 33:9106(A)(3)-(5) and 9109; Adds R.S. 33:9109.2)

### **Fire and Police Boards (Act 667)**

Existing law provides that a municipal fire and police civil service board is created in each municipal government.

New law provides that if the governing body fails to appoint the members and the state examiner has given written notification to the governing body of its failure to appoint such members, then the governing board must make the appointments within 90 days following the notification. New law requires the state examiner, if the governing body fails to make the appointments, to seek a writ of mandamus which will lie to the court of original and unlimited jurisdiction in the parish in which the office of state examiner is domiciled.

Prior law provided for removal of a member from office by judgment of the district court of the board member's domicile. New law instead provides for removal by judgment of the court of original and unlimited jurisdiction in civil suits of the parish where the board is domiciled.

New law requires the district attorney where the board is domiciled, rather than where the board member resides, to initiate a suit for removal, but only upon the written request, specifying the charges, of 25 citizens and taxpayers.

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 33:2476(C) and (H) and 2536(C) and (H))

#### **Fire and Police Departments (Act 668)**

New law defines "regular paid or regularly paid department" to mean any fire or police department in any municipality, parish, or fire protection district that employs personnel in positions of the classified service and compensates such personnel at regular intervals.

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 33:2473 and 2533)

#### **Civil Service Laws Compliance (ACT 669)**

Existing law, relative to the civil service system that is applicable to large municipalities, requires an officer or employee of the municipality to comply with and aid in carrying out the provisions of existing law and to furnish any records or information which the board or state examiner requests for any purpose of existing law. New law makes these requirements applicable to officers and employees of a local employer covered by the system applicable to small municipalities.

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 33:2503 and 2563)

### **TITLE 33: MUNICIPALITIES AND PARISHES**

#### **Kenner – Court Costs (Act 35)**

New law authorizes the mayor for the city of Kenner to impose additional court costs not to exceed \$30.

Effective August 1, 2016.

(Adds R.S. 33:447.15)

#### **Village of Elizabeth (Act 36)**

New law creates a mayor's court for the village of Elizabeth.

Effective August 1, 2016.

(Adds R.S. 33:455)

#### **Gueydan – Police Chief (Act 73)**

New law authorizes 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.

Effective August 1, 2016.

(Amends R.S. 33:385.1 (A))

#### **Village of Creola (Act 92)**

New law establishes a mayor's court for the village of Creola.

Effective upon signature of governor (May 13, 2016).

(Adds R.S. 33:455)

#### **Lake Charles and Lafayette Police Departments (Act 178)**

New law makes various changes to the seniority systems of the Lake Charles and Lafayette Police Departments

Effective August 1, 2016.

(Amends R.S. 33:2473 and 2493 and R.S. 33:2491 and 2498 both as amended by Act 240 and 243 of the 2015 RS)

#### **Lafayette Police Department (Act 177)**

New law 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.

Effective August 1, 2016.

(Amends R.S. 33:2491, 2494 and 2498, all as amended by Acts 240 and 243 of the 2015 RS)

#### **Algiers Development District (Act 172)**

Prior law authorizes the Algiers Development District in Orleans Parish to execute contracts with private entities for the purpose of development within the district.

New law provides that these contracts by the district shall be subject to audit and review by the legislative auditor.

New law does not apply to any contract executed by the district with an investor owned utility regulated by the La. Public Service Commission or the governing authority of the city of New Orleans.

Effective August 1, 2016.

(Amends R.S. 33:2740.27(K))

#### **Algiers Development District (Act 289)**

New law authorizes the legislative auditor to audit the contracts that private entities have with the Algiers Development District for the purpose of development within the boundaries of the district. New law shall not apply to any contract entered into by the district with an investor owned utility that is regulated by the La. Public Service Commission or by the governing authority of the city of New Orleans.

(Amends R.S. 33:2740.27(K))

#### **St. Mary Parish and Berwick (Act 163)**

New law authorizes the St. Mary Parish Council, the town of Berwick and Recreational District No. 3 of St. Mary Parish to enter into a written contract assigning the town the obligation to provide services in the area of the district annexed by the town and complying with numerous requirements.

Effective upon signature of the governor (May 19, 2016).

(Adds R.S. 33:4562.4)

#### **Crowley Firemen's Pay Period (Act 235)**

New law authorizes the governing authority of the city of Crowley to pay the salaries of its firemen on a biweekly basis.

Effective August 1, 2016.

(Amends R.S. 33:1993(B))

#### **Energy and Power Authority (Act 242)**

New law changes qualification requirements of members of the board of directors of the Louisiana Energy and Power Authority.

(Amends R.S. 33:4545.4 and 4545.4.2)

#### **Winn Parish Fire Protection (Act 238)**

New law provides an exception to usual civil service laws for the positions of fire chief and assistant fire chief for Winn Parish Fire Protection District No. 3. New law provides that such positions are in the unclassified service, and provides that the right of selection, appointment, supervision, and discharge for such positions is vested in the district's governing board.

Effective upon signature of governor (May 26, 2016).

(Adds R.S. 33:2541.5)

#### **Rayne Police (Act 236)**

New law, applicable to Rayne, provides that the police chief appoints, disciplines, and discharges police personnel, subject to the budgetary limitations of the mayor and board of alderman pertaining to the number of allotted positions.

(Adds R.S. 33:423.26)

#### **Livestock (Act 263)**

Present law authorizes police juries and other parish governing authorities to pass ordinances and regulations relative to the marking, sale, and

destruction of cattle, horses, and mules. Present law authorizes such parish governing authorities to police cattle in cases not provided for by law and to fix the time in which cattle may rove.

New law authorizes parish governing authorities to police livestock, rather than cattle, and to fix the time in which livestock, rather than cattle, may rove.

(Amends R.S. 33:1236(5))

#### **Broadmoor CP&I District (Act 282)**

New law provides for the expansion of the boundaries of the Broadmoor Crime Prevention and Improvement District in East Baton Rouge Parish and the imposition of a parcel fee within the additional area, subject to approval of the voters in that area.

Effective upon signature of governor (May 31, 2016).

(Amends R.S. 33:9097.8(B))

#### **Lake Charles and Crowley Police Departments (Act 283)**

New law adds exception to the usual civil service rules for the Crowley Police Department, requiring that the names be placed on a promotion employment list according to "promotional seniority" rather than "departmental seniority".

Existing law, relative to the abolition of an entire class in the classified service, requires that the regular employees of the class be demoted to lower classes and priority to positions be governed by seniority earned in the departmental service.

New law provides exceptions for the Lake Charles and Crowley Police Departments, requiring that priority to positions be governed by promotional seniority.

Effective August 1, 2016.

(Amends R.S. 33:2491; adds R.S. 33:2491, 2494, and 2498)

#### **DeRidder Deputy Fire Chief (Act 284)**

New law authorizes the governing authority of the city of DeRidder to create, by ordinance, the classified position of deputy fire chief.

Effective August 1, 2016.

(Adds R.S. 33:2541.5)

#### **DeRidder Police Department (Act 285)**

New law establishes "promotional seniority" within classes of positions in the classified police service of the city of DeRidder.

(Amends R.S. 33:2533, 2541.1, 2541.2, 2550, 2551, 2551.1, 2554, and 2558)

#### **Capital Heights CP&I District (Act 292)**

New law creates the Capital Heights Crime Prevention and Improvement District in East Baton Rouge Parish as a political subdivision of the state for the purpose of aiding in crime prevention and providing for overall betterment of the district.

New law authorizes the governing authority of the district, subject to voter approval, to impose and collect a parcel fee on each parcel within the district. New law provides that the fee imposed on improved parcels shall not exceed \$250 per year and the fee on unimproved parcels shall not exceed 50% of the fee on improved parcels. New law authorizes the board, subject to voter approval, to increase the fee one time during each calendar year not to exceed 20% of the fee imposed during the previous calendar year.

New law requires the district's board to adopt an annual budget in accordance with the La. Local Government Budget Act and provides that the district shall be subject to audit by the legislative auditor.

Effective upon signature of governor (May 31, 2016).



(Adds R.S. 33:9097.28)

### **Annexation Ordinances (Act 294)**

Present law requires the municipal governing authority to furnish the registrar of voters a copy of all municipal ordinances annexing territory, as well as a map and written description of all newly annexed territory.

New law specifies that a copy of the ordinances be furnished, by electronic medium, to the registrar of voters and secretary of state within 15 days of the adoption of the ordinances. New law requires the municipal governing authority, if it cannot furnish the information by electronic medium, to furnish it by certified mail or commercial courier.

Present law requires, within 10 days after the adoption of the ordinance, that a written description of the entire boundary of the municipality as changed be filed by the clerk of the municipality with the clerk of the district court of the parish in which the municipality is located.

New law additionally requires the municipal governing authority to furnish the registrar of voters and the secretary of state, a copy of the ordinance enlarging or contracting the boundaries of the municipality, within 15 days of the adoption of the ordinance, as well as a map and written description of the entire boundary of the municipality as changed. New law requires the municipal governing authority, if it cannot furnish the information by electronic medium, to furnish it by certified mail or commercial courier.

(Amends R.S. 33:160 and 171; adds R.S. 33, and 178(C) and (D))

### **Incorporation of New Cities (Act 376)**

Existing law provides that residents of any unincorporated area with a population in excess of 200 people may propose the incorporation of the area.

Prior law required that the petition contain the names of two or more chairpersons for the petition for incorporation who served as agents for the petitioners in all legal matters, including the receipt of notices. New law limits the number of chairpersons to two and requires that they be designated as chairperson and vice chairperson.

New law adds requirement for the form of the petition and prescribes detailed procedures relating to the timing and manner of submission.

Prior law authorized any elector to withdraw his name from the petition by filing a signed statement of withdrawal with the registrar of voters at any time before the registrar of voters certified the petition. New law instead requires the registrar of voters, prior to certifying the petition but not more than five days after submission by the chairperson for certification, whichever is earlier, to honor the written request of any elector who desires to have his signature stricken from or added to the petition.

New law provides that the petition, including the elector's name, address, and signature, are public record as of the date written notice is given by the chairperson of his intent to submit the petition for certification, and that the request of the elector to add or remove his name is a public record.

New law provides that the chairperson is the custodian of the petition prior to submission for certification but the registrar of voters becomes the custodian once the petition is submitted for certification. New law provides that the petition and its custodian are subject to existing law relative to the inspection of public records.

New law prohibits the annexation of any area included within a petition filed with the secretary of state until the time lapses for the chairman to submit the petition for certification.

Effective August 1, 2016.

(Amends R.S. 33:1)

### **Gas Utility District (Act 356)**

New law provides an exception to the \$75 per diem maximum for board members of any gas utility district located in a parish with a population of not less than 20,000 persons and not more than 20,500 persons, raising the maximum to \$120.

Effective August 1, 2016.

(Adds R.S. 33:4305(B)(5))

### **Mayor's Court Costs (Act 361)**

New law authorizes mayors to impose additional court costs not to exceed \$20 for each offense, and requires that \$10 of such additional court costs collected shall be remitted to the local public defenders office.

(Amends R.S. 33:441 and §2 of Act No. 13 of the 2013 R.S.)

### **Neighborhood Improvement Districts (Act 400)**

New law authorizes the governing authority of any parish with a population of not less than 275,000 persons and not more than 445,000 persons to create, by ordinance, a neighborhood improvement and beautification district within any neighborhood located within the parish to promote and encourage the improvement, beautification, and overall betterment of the neighborhood and aid its residents by maintaining property values, increasing the tax base, fostering economic growth, and providing for recreational activities.

New law requires the parish governing authority to provide, in the ordinance creating the district, for its name, boundaries, governance, and powers and duties, including the authority to impose taxes or fees within the district, subject to voter approval. New law provides that the parish governing authority may grant to the district the power to perform any function appropriate for achieving the purpose of the district, including acquiring property located within the district. However, new law prohibits

the district from acquiring property by expropriation and using district funds for security enhancements.

Effective August 1, 2016.

(Adds R.S. 33:9099.3)

### **Payments to Local Government (Act 403)**

Existing law authorizes a local entity to accept payment of any local charge by credit card, debit card, or similar payment device. New law adds clerks of court, sheriffs, district attorneys, and assessors to the definition of a local entity.

New law additionally authorizes a local entity to negotiate and enter into contracts with third party solutions. New law defines a "third party solution" to mean a company that provides a software application, a gateway, or both, to capture credit card and other forms of electronic payments for processing by a merchant services acquirer.

Existing law requires a local entity to establish procedures and guidelines for the approval and operation of any cards or devices and to fix applicable processing fees. New law additionally authorizes a third party solution to establish and assess a fee for processing a local charge. New law requires that the fee be paid to the third party solution by the payor and provides that the fee is not considered a local charge. New law requires that the amount of the fee be disclosed to the payor before the transaction is completed.

Effective August 1, 2016.

(Amends R.S. 33:2933)

### **Wedgewood CP&I District (Act 447)**

New law changes the boundaries of, increases the power of, and immunizes the board members and officers of, the Wedgewood Crime Prevention and Improvement District in East Baton Rouge Parish.

Effective upon signature of governor (June 9, 2016).

(Amends R.S. 33:9097.3)

### **Dissolution of Small Cities (Act 313)**

Existing law requires a municipal governing authority in any municipality with a population of not more than 2,500 persons to call an election for the purpose of determining whether the municipality should be dissolved if presented with a petition. Prior law required that the petition be signed by a majority in number and amount of the property taxpayers of the municipality.

New law instead requires that the petition be signed by a majority of the qualified electors of the municipality, be limited to a request that an election be called and held in the municipality, and be in compliance with existing law relative to the content of petitions submitted to a registrar of voters for certification.

Prior law required various special procedures for conducting the election. New law instead requires that the procedures for the election be in compliance with the provisions of the La. Election Code, with certain exceptions.

Prior law required the municipal governing authority, on the date and at the hour and place of the election, to, in public session, open each ballot box, examine and count the ballots in number and amount, examine and canvass the returns and declare the result of the election.

New law instead only requires the municipal governing authority to examine and canvass the returns and declare the result of the election.

Existing law requires that the results be promulgated by publication in one issue of a newspaper published in the municipality, or, if there is none, in a newspaper published in the parish in which the municipality is situated, or in an adjoining parish if no newspaper is published in the parish. New law requires that the newspaper be one with general circulation.

Effective upon signature of governor (June 2, 2016).

(Amends R.S. 33:251-261)

### **Firemen & Police Political Activities (Act 332)**

Prior law provided for fire and police civil service systems for municipalities with populations between 13,000 and 250,000 and prohibited certain political activities by classified employees. Prior law required that the appointing authority discharge an employee who violates the political activity prohibition.

New law requires that the appointing authority investigate any alleged violation, unless the appointing authority requests the municipal fire and police civil service board (board) to conduct the investigation.

New law requires that if it is determined that the employee is guilty of violating the prohibition, then the employee is to be suspended for 30 work days without pay for a first violation or discharged for a second violation. New law requires that if the violation is due to the employee becoming a candidate for nomination or election to a public office, then the employee is terminated upon determination of the violation.

New law provides that if, after investigating, the board finds a violation, it shall order the appointing authority to suspend the employee for 30 work days for a first violation and mandate educational training on prohibited political activities. New law requires that upon a board finding of a violation for a second time, the board is to order the appointing authority to discharge the employee.

New law also applies to fire and police civil service systems for small municipalities and for parish and fire protection districts.

New law makes the same changes as to prohibited political activities in fire and police civil service in municipalities with a population between 13,000 and 250,000 as contained in the

La. Constitution of 1921 which is retained and continued in force and effect under the La. Constitution of 1974.

Effective August 1, 2016.

(Amends R.S. 33:2504(B) and (C), 2564(B) and (C), and Const. 1921, Art. XIV, Sec. 15.1(34))

#### **New Orleans Exhibition Hall District (Act 457)**

Existing law creates and provides for the New Orleans Exhibition Hall Authority Economic Growth and Development District as a political subdivision.

New law grants to the district the authority to implement tax increment financing and to levy taxes.

New law authorizes the district to create subdistricts after public notice and hearing, to be governed by the district's board. New law grants each subdistrict the same powers granted to the district.

Effective July 1, 2016.

(Amends R.S. 33:130.865(9) and 130.866; adds R.S. 33:130.865(10))

#### **Small City Special District (Act 514)**

In new law "city" means 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.

New law authorizes the city governing authority to, by ordinance, create a special taxing district and political subdivision of the state, and provides in great detail regarding the powers and duties of such district/subdivision.

Effective upon signature of the governor (June 16, 2016).

(Amends R.S. 33:9038.31(2) and (3); adds R.S. 33:9038.70)

#### **East Baton Rouge Hotel Tax (Act 528)**

New law provides for a 2% hotel occupancy tax in East Baton Rouge Parish while exempting the municipalities of Baker, Central, or Zachary and the areas within the Baton Rouge North Economic Development District.

New law provides that the ordinance levying and imposing the hotel occupancy tax may be approved by a favorable vote of a majority of the members of the governing authority and that collection shall not begin earlier than Sept. 1, 2016.

New law provides that after deduction of reasonable collection expenses, 50% of the funds shall be used to fund the Baton Rouge River Center and 50% to fund Visit Baton Rouge.

New law provides for 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.

New law provides for the District to use the proceeds of the tax for any of the District's lawful purposes and as provided by the ordinance dedicating the proceeds.

New law changes the boundaries and composition of the Baton Rouge North Economic Development District.

Effective upon signature of the governor (June 17, 2016).

(Amends R.S. 33:2740.67; adds R.S. 47:338.217)

#### **Waterworks Districts (Act 546)**

Existing law authorizes a per diem of up to \$60 for waterworks district commissioners for attendance at up to 24 regular meetings and 12 special meetings in a year.

New law increases the maximum per diem to \$120 for commissioners of waterworks districts

in a parish with a population of not less than 20,000 and not more than 20,500 persons.

Effective August 1, 2016.

(Adds R.S. 33:3819(K))

### **Lafayette Civil Service (Act 542)**

New law authorizes the city of Lafayette and municipalities with a population in excess of 150,000 but not more than 210,000 to fill the secretary position by employing any person on a full-time basis.

Effective August 1, 2016.

(Adds R.S. 33:2476.5 and 2476.6)

### **Civil Service (Act 552)**

Existing law provides, with some exceptions, that every person appointed to a position in the classified service is a probational employee, and he must be tested by a working test while occupying the position before he may be confirmed as a regular and permanent employee in the position.

New law requires the appointing authority to appoint any person who is certified as eligible but who, because of a work-related illness, injury, or incapacity, is unable to immediately begin a working test. New law provides that the working test is immediately interrupted and cannot commence until the employee has fully recovered and returns to full duty. New law requires the board to declare him ineligible and to appoint the next eligible person if the employee fails to recover and return to full duty within six months. New law provides that the working test is considered interrupted by any absence greater than 30 consecutive days, but the test period cannot last longer than an aggregate of one year.

Existing law requires that when a position is filled by promotion, then the position must be filled by the eligible person with the greatest seniority in departmental service. Prior law, relative to the Lafayette Police Department,

provided for promotions based on promotional seniority rather than departmental seniority. New law limits this Lafayette exception to the ranks of lieutenant and above.

New law additionally provides an exception for the DeRidder Police Department by providing for promotions based on promotional seniority rather than departmental seniority.

Multiple effective dates.

(Amends R.S. 33:2494, 2554, and 2555; adds R.S. 33:2495(F), and 2585.10)

### **Lawn Cleanliness (Act 565)**

New law grants to the governing authority of any parish with a population of not less than 35,800 persons and not more than 39,000 persons powers comparable to those in Jefferson Parish to require or compel property owners to cut or remove grass, obnoxious weeds, or other deleterious or unhealthful growths, trash, debris, refuse, or discarded or noxious matter on their property, and to require property owners to remove trash, debris, junk, wrecked or used automobiles, or any other junk or other discarded items on their property if such items are being stored or kept in violation of any zoning or other regulatory ordinance.

Effective August 1, 2016.

(Amends R.S. 33:1236(21)(b) and (30)(b))

### **Prayer at Public Proceedings (Act 575)**

New law provides that a political subdivision may open proceedings with a voluntary prayer. However, no official or standard prayer shall be prescribed by the political subdivision.

New law is intended to reflect the tradition and practice of ceremonial invocations that are meant to lend gravity to a public occasion.

New law implementation is to be neutral toward religion, and shall not be intended nor interpreted as state support of or interference with religion or promoted as a religious exercise.

New law is not to limit or restrict the rights of any individual voluntarily choosing to pray at the opening of proceedings as it relates to the individual's right of freedom of speech or right of the free exercise of religion as guaranteed pursuant to the First Amendment of the U.S. Constitution.

Effective August 1, 2016.

(Adds R.S. 33:9682)

### **911 Services and Charges (Act 590)**

New law increases the prepaid 911 charge from 2% to 4% of the amount of the per retail transaction.

New law allows any seller to deduct and retain half of the 2016 fourth quarter's fees and thereafter to retain 2% of the prepaid charges.

New law requires all revenues collected from the assessment of 911 surcharge fees to be used for the sole purpose of providing 911 emergency response communications services and operations and prohibits diversion of the revenues for use by any other entity or for any other purpose other than those outlined in the existing law and new law.

New law provides that the financial records of each district shall be audited. In addition, each district shall submit an annual report to the legislative auditor which includes information on the revenues derived from the service charge authorized pursuant to new law and a detailed accounting of such revenues. The report shall include a report on the status of implementation of wireless E911 service.

Effective October 1, 2016.

(Amends R.S. 33:9109.1; adds R.S. 33:9109.2)

### **Parkwood Terrace CP&NI District (Act 610)**

New law creates the Parkwood Terrace Crime Prevention and Neighborhood Improvement District in East Baton Rouge Parish for the purposes of providing security for district

residents and serving the needs of district residents by funding beautification and improvements for the overall betterment of the district.

New law authorizes the governing authority of East Baton Rouge Parish to impose and collect a parcel fee within the district, but the amount of the fee shall be as requested by the board, and the fee shall be a flat fee per improved parcel not less than \$100 per parcel per year for lots zoned for residential.

New law provides that the fee shall be imposed only after the question of its imposition has been approved by a majority of the registered voters of the district.

Effective upon signature of governor (June 17, 2016).

(Adds R.S. 33:9097.28)

### **Growth and Development (Act 620)**

New law 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.

New law defines "smart growth development" to mean one or more works, undertakings, and activities for the development, redevelopment, improvement, construction, rehabilitation, or conservation of structures, facilities, and appurtenances in an area that are intended to result in a new community, including the activities to carry out a new community development plan, which may do various things.

Effective upon signature of the governor (June 17, 2016).

(Adds R.S. 33:140.211 and 140.212)

### **Sustainable Energy Financing District (Act 643)**

Prior law authorized the governing authority of a parish or municipality to create a special district known as a sustainable energy financing district. Prior law authorized the local governmental subdivision to incur debt in order to provide to the district sufficient funds to make loans and authorized owners of property in the district to request loans from the district to cover the costs of energy-related improvements to their property. Prior law addressed the loan program in detail.

New law repeals prior law.

Effective August 1, 2016.

(Repeals R.S. 33:130.811-814)

## **TITLE 34: NAVIGATION AND SHIPPING**

### **South Tangipahoa Parish Port Commission (Act 431)**

New law allows any person to serve no more than three, rather than two, full six-year terms as a member of the South Tangipahoa Parish Port Commission.

Effective June 9, 2016.

(Amends R.S. 34:1951(D))

### **Cameron Parish PHT District (Act 331)**

Prior law provided for the East Cameron Port, Harbor and Terminal District and the West Cameron Port, Harbor and Terminal District.

New law repeals prior law and creates the Cameron Parish Port, Harbor, and Terminal District.

Effective January 1, 2017.

(Adds R.S. 34:5201-5205; repeals R.S. 34:2501-2506 and R.S. 34:2551-2556)

### **Greater Krotz Springs Port Commission (Act 325)**

New law changes the boundaries and increases the powers of the Greater Krotz Springs Port Commission.

Effective June 2, 2016.

(Amends R.S. 34:1452, 1453, 1454 and 1455)

### **Avoyelles Parish Port Commission (Act 594)**

New law changes the composition of the Avoyelles Parish Port Commission

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 34:1801)

### **Port of South La. Commission (Act 671)**

New law changes the composition of the Port of South La. Commission.

Effective August 1, 2016.

(Amends R.S. 34:2471)

## **TITLE 35: NOTARIES PUBLIC AND COMMISSIONERS**

### **Notarial Revocation (Act 116)**

Present law provides that a notary public who is not an attorney may have his notarial commission and powers revoked or suspended when it is demonstrated that the notary has engaged in any of various acts, including certifying as true what he knew or should have known was false. New law specifies that the notary must have "officially" certified as true what he knew or should have known was false.

Present law provides for notice to the district attorney for purposes of the revocation proceedings. New law requires that notice of the revocation proceedings also be given to the attorney general.

(Amends R.S. 35:15(A)(4) and 16(B) and (C))

#### **Insurance Department Notaries (Act 363)**

New law provides that the commissioner of insurance may appoint not more than six employees of the Dept. of Insurance as ex officio notaries public.

New law provides that these ex officio notaries public may exercise the functions of a notary public only to administer oaths and receive sworn statements and shall be limited to matters within the official functions of the Dept. of Insurance.

New law provides that all acts performed by an ex officio notary public shall be performed without charge or other compensation.

New law provides that the commissioner of insurance may suspend or terminate any ex officio notary appointed pursuant to new law, and provides that separation from the employ of the Dept. of Insurance shall terminate the powers of such an ex officio notary public.

Effective upon signature of governor (June 5, 2016).

(Adds R.S. 35:396)

#### **Notarial Exam Fees (Act 438)**

New law increases the maximum \$75 fee for taking the statewide notarial exam to a fixed \$100 fee.

New law changes the maximum \$100 charge for the document containing the material and sources from which examination questions are devised to a fixed \$100 charge.

Effective upon signature of governor (June 9, 2016).

(Amends R.S. 35:191.1(B))

#### **Causeway Police Notaries (Act 349)**

New law authorizes the chief of police of Causeway Police Department may designate 10 officers in his office as ex officio notaries public.

New law provides that an ex officio notary may administer oaths and execute affidavits, acknowledgments, and traffic tickets.

Effective upon signature of the governor (June 2, 2016).

(Adds R.S. 35:415)

### **TITLE 36: ORGANIZATION OF THE EXECUTIVE BRANCH**

#### **City Park Improvement Association (Act 69)**

Old law placed the New Orleans City Park Improvement Assoc. and its board of commissioners in the Dept. of Culture, Recreation and Tourism (DCRT) as a policymaking agency.

New law instead places the New Orleans City Park Assoc. and its board of commissioners in DCRT as an independent agency with authority to carry out the powers, duties, functions, and responsibilities granted to it by law independently of the department and its secretary.

Effective August 1, 2016.

(Amends R.S. 36:209(O); repeals R.S. 36:802.22)

#### **Department of Health (Act 300)**

New law changes the name of the Dept. of Health and Hospitals to the La. Dept. of Health and re-creates the department and the statutory entities within the department.

New law relative to the department's name change is effective upon signature of the governor.



New law relative to the re-creation of the department is effective June 30, 2016.

(Amends R.S. 36:251; adds R.S. 49:191(9)(b); repeals R.S. 49:191(6)(d))

#### **DEQ Office of Environmental Assessment (Act 378)**

Prior law provided that the secretary of the Dept. of Environmental Quality is responsible for the functions of environmental air quality assessment, water quality assessment, remediation services, and laboratory services and must assign each of these functions to either the office of environmental compliance or the office of environmental services. New law repeals prior law.

New law creates the office of environmental assessment. New law provides that the office of environmental assessment must provide for environmental air quality assessment and water quality assessment, and must administer underground storage tank service activities, all remediation services, and such duties as delegated by the secretary.

Effective August 1, 2016.

(Amends R.S. 36:231(C)(1); adds R.S. 30:2011(C)(1)(b) and 36:238(C); repeals R.S. 30:2011(D)(26))

#### **Multimodal Commerce Advisory Commission (Act 324)**

New law changes the chair of the commission.

Effective July 1, 2016.

(Amends R.S. 36:508.4(A)(1))

#### **Health Boards (Act 338)**

New law requires the governing boards under the direction of the Department of Health and Hospitals (DHH) to give express written approval by two-thirds of their members for any salary adjustment or cost of living adjustment, and requires the governing board to submit the

express written approval to the secretary of DHH for inclusion in the documentation retained by the department under prior law.

Effective upon signature of the governor (June 2, 2016).

(Adds R.S. 36:254(L))

#### **Council on Grandparents Raising Children (Act 301)**

New law provides that the Council on the Status of Grandparents Raising Grandchildren is moved from the Department of Children and Family Services to a subcommittee of the Children's Cabinet Advisory Board within the office of the governor.

Effective upon signature of the governor (June 2, 2015).

(Amends R.S. 36:4(B)(8); adds R.S. 46:2605.1-2605.3; repeals R.S. 36:478(L) and R.S. 46:2911-2913)

#### **Museum Police (Act 615)**

New law authorizes the secretary of the Dept. of Culture, Recreation and Tourism (DCRT) to employ police officers for state museums.

New law requires state museum police officers to complete a basic certified training program approved by the Council on Peace Officer Standards and Training and to fulfill all requirements for annual basic firearms training.

New law provides that state museum police officers shall have the right to exercise the power of arrest when discharging their duties on property under the jurisdiction of DCRT and on all streets, roads, and rights-of-way within or contiguous to the perimeter of the property.

New law requires state park wardens to complete a basic certified training program approved by the Council on Peace Officer Standards and Training and to fulfill all requirements for annual basic firearms training.

Effective January 1, 2017.

(Adds R.S. 36:204(B)(8) and R.S. 56:1688(E))

## **TITLE 37: PROFESSIONS AND OCCUPATIONS**

### **Disposition of Human Remains (Act 143)**

Present law provides for the priority of certain persons in determining the disposition of human remains.

New law provides as a preference, prior to the surviving spouse, the person designated to control disposition by the decedent in the form of a notarial testament or a written and notarized declaration.

New law adds adult grandchildren as a priority group of persons, and clarifies that a majority of the adult persons in the next degrees of kin refers only to survivors of the decedent.

New law provides that in the absence of specific directions given by the decedent, if the authorization of the person or persons with the right to control disposition cannot be obtained, a final judgment of a district court is required.

New law deletes an old law provision prohibiting assistants not certified as embalmers from preparing the bodies of persons deceased from a communicable disease.

New law provides that persons, in the priority listed in present law and new law, have the right to arrange with a funeral director or funeral establishment, the funeral goods and services regarding the remains of a decedent.

New law exempts a funeral director, funeral establishment, or respective employees from liability for following the directions or relying on the representation of a person who purports to have the preferential right to arrange for funeral goods and services.

Present law provides for the priority of certain persons to serve as an authorizing agent for

cremation of a decedent's remains, starting with the surviving spouse.

New law provides as a preference, prior to the surviving spouse, the following persons:

(1) Any person arranging the cremation, if the decedent gave specific directions in the form of a notarial testament or a written and notarized declaration providing for disposition of his remains by cremation.

(2) The person designated to control disposition by the decedent in the form of a notarial testament or a written and notarized declaration.

New law further changes present law to require, with respect to the prioritized right to serve as an authorizing agent for cremation, a majority of the surviving adult children, a majority of the surviving adult siblings, and a majority of the surviving adult persons in the next degrees of kin to the decedent, rather than all of each such group.

New law requires a copy of the decedent's notarial testament or written and notarized declaration to be attached to the cremation authorization form if the agent is acting pursuant to the testament or declaration.

Present law provides certain provisions for military persons who died in a certain manner while having a written and notarized declaration of interment and a DD Form 93. New law makes present law expressly applicable to interment by cremation.

Present law requires representation or positive identification made by certain persons that respective human remains are those of the decedent. New law excludes the human remains of fetuses deceased as the result of spontaneous fetal death, if written identification is received when such remains are released to the funeral director.

Present law provides for a funeral director or representative of a crematory authority to deliver cremated human remains to authorized persons, and requires a receipt to be signed by the

respective funeral director or representative of a crematory authority and the authorized person receiving the cremated human remains.

New law changes present law to authorize a representative of a funeral establishment to exchange in the delivery of cremated human remains and authorizes a legal entity to receive cremated human remains. New law requires retention of the signed delivery receipt by the funeral establishment or crematory authority whose respective representative delivers the cremated human remains to the person or representative of the legal entity specified on the cremation authorization form.

(Amends R.S. 8:655 and R.S. 37:848, 876, 877, and 879; adds R.S. 37:855)

#### **Provisional Licenses (Act 105)**

Existing law authorizes entities issuing licenses for certain fields of work to issue provisional licenses to ex-offenders.

New law exempts the La. Licensed Professional Counselors Board of Examiners.

New law requires exempt licensing entities to keep record and compile a report of the number of provisional licenses denied by the respective entity, including all reasons for denial, when such denial is of an otherwise qualified applicant previously convicted of an offense, except certain offenses.

New law requires any licensing entity issuing provisional licenses to keep record and compile a report of the number of provisional licenses issued and denied by the entity, including all reasons for any such issuance or denial.

New law requires licensing entities to provide the report annually to the House Committee on Commerce no later than February 1st.

Effective August 1, 2016.

(Adds R.S. 37:36(E)(1)(aa) and (3))

#### **Unauthorized Practice of Law (Act 204)**

New law 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.

New law 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.

New law provides for a prescriptive period of one year from the date of the unauthorized practice of law or its discovery and requires that an action be filed within three years from the date of the act constituting the unauthorized practice of law.

Effective August 1, 2016.

(Adds R.S. 37:213.1)

#### **Architecture Education and Research Fund (Act 251)**

New law authorizes the State Bd. of Architectural Examiners to allocate up to 10% of all license renewal fees and delinquency fees each fiscal year to the Louisiana Architecture Education and Research Fund (fund).

New law declares that the fund shall be used exclusively for one or more of 5 specified purposes in order to improve architectural education and the licensure of student interns in this state.

New law requires an accredited university architectural program to submit an annual proposal and budget, including any information deemed necessary by the board, to be considered for any award from the board.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 37:144(G))

### **Telemedicine (Act 252)**

New law provides that all of the following conditions and authorizations shall apply to a physician who holds an unrestricted license to practice medicine from the La. State Board of Medical Examiners, and who practices telemedicine upon any patient who is being treated at a healthcare facility that is required to be licensed and which holds a current registration with the U.S. Drug Enforcement Administration:

(1) The physician shall use the same standard of care as if the healthcare services were provided in person.

(2) The physician shall be authorized to prescribe any controlled dangerous substance without necessity of conducting an appropriate in-person patient history or physical examination of the patient as otherwise would be required by existing law.

(3) The physician shall not be subject to any regulatory prohibition or restriction on the practice of telemedicine, including prohibitions or restrictions related to prescribing controlled dangerous substances, which are in any manner more restrictive than the prohibitions and restrictions that are otherwise applicable to the entire practice of medicine.

New law shall not restrict the La. State Board of Medical Examiners from taking any action allowed by law or regulation in the administration of any disciplinary matter.

Effective upon signature of governor (May 26, 2016).

(Amends R.S. 37:1271; Adds R.S. 37:1271.1)

### **Appraisers (Act 259)**

Existing law establishes the standard for certification as an appraiser who may supervise appraiser trainees. New law adds a restriction

that the enumerated qualifications of existing law must have been achieved in La.

Existing law states, in part, that a supervising appraiser shall not have been subject to any disciplinary action within the last three years that affects the supervisor's legal eligibility to engage in appraiser practice. New law clarifies that this includes such disciplinary actions in any jurisdiction.

Prior law required an appraiser trainee to maintain a separate appraisal log for each supervising licensed appraiser. New law clarifies that an appraisal experience log shall be maintained jointly by the supervising appraiser and the trainee appraiser, and that it is the responsibility of both the supervisory appraiser and the trainee appraiser to ensure the appraisal experience log is accurate, current, and complies with the requirements of the trainee appraiser's credentialing jurisdiction. New law changes the list of information that must be included in the log and establishes a minimum standard.

Prior law required licensed real estate appraisers to retain reports and records for two years after the trial date of any expected litigation. New law requires appraisers to retain reports and records for two years after final disposition.

Existing law imposes an expiration date on certain application procedures relative to applicants for licenses or licensees applying for a renewal of their licenses. New law changes the sunset date from December 31, 2015, to December 31, 2017.

Prior law required any appraisal management company to compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the presumptions of compliance under federal law. New law removes reference to "presumptions of compliance" and requires that compensation of appraisers be consistent with federal law and rules.

New law requires the board to collect, from each appraisal management company that is

registered or seeking to be registered in this state, the information that the appraisal subcommittee requires to be submitted to it by the state pursuant to regulations promulgated by the appraisal subcommittee, including the collection of administrative fees consistent with the final federal rules.

New law requires federally regulated appraisal management companies operating in this state to report to the board any information required to be submitted by the state to the appraisal subcommittee pursuant to the policies of the appraisal subcommittee regarding the determination of the appraisal management company national registry fee. New law requires that reports submitted pursuant to new law shall include specified information.

Effective August 1, 2016.

(Amends R.S. 37:3397, 3411, 3415.10, 3415.15(A); adds R.S. 37:3415.22)

#### **Architecture Certificates of Authority (Act 255)**

New law authorizes the La. State Bd. of Architectural Examiners to issue certificates of authority and to charge a fee to any entity (or sole proprietorship) seeking to obtain a certificate of authority to practice architecture in La., unless such entity is exempted from the fee by the board. New law limits the certificate of authority fee to no more than \$300.

Present law states, in pertinent part, that the board may not increase the fee for issuing a license by more than \$30 dollars during any three year period. New law retains present law and applies the same restriction to fee increases relative to certificates of authority.

New law requires an annual renewal of certificates of authority. New law limits the renewal fee for certificates of authority to no more than \$300. New law requires the board to issue a renewal certificate upon payment of the renewal fee.

New law regulates delinquency payments relative to certificates of authority. New law authorizes the board to assess a delinquency fee when the annual renewal fee is paid at any time after June in the year the fee first became due. New law limits the delinquency fee to no more than \$300.

(Amends R.S. 37:149 and 150)

#### **Cosmetology (Act 271)**

New law provides for clarification of the definitions of "esthetics" and "manager".

New law provides that manicuring shall not include the use of blades or graters for callous or skin removal.

Prior law provided that any cosmetology salon owner who is not a licensed cosmetologist, any manicuring salon owner who is not a licensed manicurist, and any esthetics salon owner who is not a licensed esthetician shall employ a manager who is a licensed cosmetologist and the manager shall not be absent from the salon more than two working days per week.

New law provides that such owner shall employ one or more registered managers who shall be licensed cosmetologists, and provides that a registered manager shall be present at the salon during all hours of operation and shall be responsible for ensuring that all persons practicing cosmetology within the facility are appropriately licensed and follow all applicable laws and rules and regulations.

Prior law provides for requirements for application for a cosmetology school certificate of registration. New law changes the requirement of a surety bond from \$5,000 to \$30,000 for a school which charges tuition to show proof of financial responsibility.

New law repeals prior law regarding inactive certificate of registration and reactivation of certificate.

Effective August 1, 2016.

(Amends R.S. 37:563, 589, 594, and 600; repeals R.S. 37:588)

### **State Plumbing Board Gas Fitter Licensing (Act 297)**

New law indicates the State Plumbing Board (board) shall be the sole and exclusive agency in La. empowered to license any natural person or regulated business entity who is engaged or who seeks to engage in the business of work for the general public that includes installation, repair, improvement, alterations, or removal of natural gas or liquefied petroleum gas piping, tanks, and appliances annexed to real property.

New law shall not be construed to supersede either the authority of the State Licensing Board for Contractors to regulate mechanical contractors or the authority of the Louisiana Liquefied Petroleum Gas Commission to regulate gas fitter installations.

New law authorizes the board to promulgate rules and regulations related to gas fitting, and clarifies that those rules and regulations shall preempt any conflicting local laws, notwithstanding any provision of a home rule charter to the contrary.

New law prohibits municipalities and other local regulatory authorities from requiring that any gas fitter or master gas fitter must apply for or maintain any gas fitter or master gas fitter's license, or any equivalent thereof, as a condition to performance of gas fitter work in any municipality or other local jurisdiction unless that gas fitter or master gas fitter's license is issued by the board.

New law allows municipalities or other local regulatory authorities to assess and collect locally adopted fees and charges relative to gas fitting work that is performed in their respective jurisdictions, but only from persons licensed pursuant to present law.

New law requires the board to assure that gas fitting work is performed only by persons who have proven knowledge of and skill in the gas fitting trade. New law requires the board to

adopt rules and regulations allowing for the waiver of any examination requirements imposed on persons performing gas fitting work who satisfy the performance conditions described in present law prior to July 1, 2016. New law adds that, for all other purposes of regulation, testing, and licensing pursuant to the provisions of present law, the regulation, testing, and licensing of gas fitters by the board shall be subject to the same requirements and treated in the same manner as the regulation, testing, and licensing of plumbers.

New law prohibits any person from performing the work of a gas fitter or a master gas fitter unless he possesses a license or renewal thereof issued by the board. New law shall not apply to work performed by persons on their own residences.

New law requires the board to adopt a nationally recognized code or codes regulating gas fitting as the basis for the administered examination and for any inspections of gas fitting performed by any person subject to the provisions of new law.

Present law establishes a schedule and standards for certain fees. New law provides that gas fitters shall be subject to the same provisions that are imposed on journeyman plumbers, with exceptions.

New law requires the board to conduct inspections of gas fitting work.

New law adds the following to the nonexclusive list of grounds for revocation, or lesser disciplinary action:

- (1) The habitual violation of any rules or regulations adopted by the board by a gas fitter or master gas fitter.
- (2) The violation of any municipal code, any other code adopted by the board related to gas fitting not otherwise preempted by present law, or any other related regulation as evidenced by an adjudication before a local governing authority.

(3) The refusal of a master gas fitter to accurately designate an employing entity or provide notice of any change in employment with an employing entity.

Effective January 1, 2017.

(Amends R.S. 37:1371(A), 1372, 1373(A), and 1374(B); adds R.S. 37:1361(F), 1366(J), 1367(J), 1368(J), 1377(I)-(K), and 1378(A)(9)-(11))

### **Physical Therapy (Act 396)**

New law authorizes a physical therapist to treat a condition within the scope of physical therapy, other than under circumstances already authorized in current law, with or without a prescription or referral of a person licensed to practice medicine, surgery, dentistry, podiatry, or chiropractic, if the physical therapist has five years of licensed clinical practice experience.

New law requires the physical therapist, if after 30 calendar days of implementing physical therapy treatment the patient has not made measurable or functional improvement, to refer the patient to an appropriate healthcare provider.

New law prohibits a physical therapist from rendering a medical diagnosis of a disease.

Effective upon signature of the governor (June 6, 2016).

(Amends R.S. 37:2418 and 2420)

### **Dental Board (Act 369)**

Present law provides that in an appeal to a civil district court of an administrative decision rendered by the La. State Board of Dentistry, the party seeking judicial review shall furnish security in accordance with certain rules.

New law provides that the party seeking judicial review shall furnish security in the amount of any fine set forth in the decision being appealed.

New law revises present law relative to security furnished in cases of judicial review of decisions by the La. State Board of Dentistry to provide:

(1) The security shall be in favor of the clerk of the trial court in which the proceeding was brought, and shall be furnished as security for the judicial review of the complaining party in civil district court.

(2) The security shall meet the requirements for bonds in judicial proceedings, and shall become available to satisfy any portion of the judgment once the judgment becomes final and has not been satisfied within 30 days of becoming final.

Present law authorizes the La. State Board of Dentistry to issue subpoenas to persons who the board has probable cause to believe have engaged in the practice of dentistry or dental hygiene without a currently valid license or permit. New law deletes language providing that the board may issue such subpoenas in addition to other civil remedies and criminal penalties provided in present law.

(Amends R.S. 37:786 and 788)

### **Practical Nursing Board (Act 368)**

Existing law provides that unless a special law is applicable, no proceeding of any kind may be initiated by a professional or occupational board or commission after various time periods have passed.

New law adds the La. State Board of Practical Nurse Examiners as a board which is exempt from the above limitations.

New law authorizes the board to require any applicant requesting issuance, renewal, or reinstatement of any license or permit from the board, including permission to enroll as a student in any nurse training course, to provide a full set of fingerprints as a condition of the board's consideration of his application.

Prior law required that upon request by the board, the La. Bureau of Criminal Identification and Information of the office of state police

conduct a search of its criminal history record information relative to the person applying to the board and report the results of its search to the board.

New law provides instead:

(1) Upon receipt by the bureau of fingerprints from the board, the bureau shall survey its criminal history records and identification files and make a simultaneous request of the Federal Bureau of Investigation for like information from other jurisdictions.

(2) The bureau shall provide a report promptly and in writing, but shall provide only such information as is necessary to specify whether or not the person has been arrested for or convicted of or pled nolo contendere to any crime or crimes; such crime or crimes; and the date or dates on which they occurred.

(3) The report shall include arrests, convictions, or other dispositions, including any conviction dismissed pursuant to existing law, C.Cr.P. Art. 893 or 894.

New law deletes prior law which authorized the board to charge and collect from applicants such amounts as may be incurred by the board in requesting and obtaining state and national criminal history record information.

Effective August 1, 2016.

(Amends R.S. 37:969 and 969.1; adds R.S. 37:21(B)(11))

#### **Scrap Metal Recyclers Law (Act 412)**

New law repeals prior sunset law for the purpose of sustaining the provisions of existing law.

Effective upon signature of governor (June 9, 2016).

(Repeals R.S. 37:1977)

#### **Dietitians and Nutritionists (Act 415)**

Existing law authorizes a licensed dietitian or nutritionist to assess nutritional needs and recommend a dietary plan to the patient's primary healthcare provider.

New law authorizes a licensed dietitian or nutritionist employed by a healthcare facility licensed by the La. Dept. of Health to directly order the dietary plan and appropriate laboratory tests to monitor the effectiveness of the dietary plan, subject to the approval of and authorization by the licensed healthcare facility's medical staff or bylaws.

Effective August 1, 2016.

(Adds R.S. 37:3083(1)(f))

#### **Insurance and Ex-Cons (Act 448)**

Present law generally provides that a person cannot be disqualified or considered ineligible from the practice of a trade, occupation, or licensed profession due to a criminal record, unless the person has a conviction that is directly related to the position of employment or license sought. Present law provides for any decision barring a person from engaging in a such a trade, occupation, or licensed profession, due to a criminal conviction, to explicitly state the reasons for the decision.

New law exempts the Dept. of Insurance from the provisions of present law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 37:2950(D)(1)(a)(xviii))

#### **Redispensing of Drugs to Inmates (Act 310)**

Present law requires that drugs dispensed for use by an offender in the custody of the Dept. of Public Safety and Corrections be accepted for return, exchange, and redispensing.



New law extends the law to include offenders in the custody of local law enforcement offices or departments.

New law creates an exception to present law and new law, which exception stipulates that a drug that can be dispensed only to a patient registered with the drug's manufacturer in accordance with federal Food and Drug Administration requirements shall not be accepted or redispensed by the correctional facility pharmacy program.

(Amends R.S. 37:1226.3(A) and (B))

### **Speech-Language Pathology and Audiology (Act 478)**

New law revises qualifications for licensure of audiologists and speech-language pathologists, including requiring that an audiologist hold doctoral degree or equivalent.

New law increases the powers of the La. Board of Examiners for Speech-Language Pathology and Audiology (board).

New law authorizes the board to require an applicant, as a condition of eligibility for licensure, to satisfy various requirements.

New law requires the board to request and obtain state and national criminal history record information from the La. Bureau of Criminal Identification and Information of the office of state police within the Department of Public Safety and Corrections ("bureau") and the Federal Bureau of Investigation ("FBI") relative to any applicant for licensure whose fingerprints the board has obtained pursuant to law for the purpose of determining the applicant's suitability and eligibility for licensure.

New law provides that upon request by the board and upon the board's submission of an applicant's fingerprints, and such other identifying information as may be required, the bureau must survey its criminal history records and identification files and make a simultaneous request of the FBI for like information from other jurisdictions.

New law provides that any and all state or national criminal history record information obtained by the board from the bureau or FBI which is not already a matter of public record will be deemed nonpublic and confidential information, restricted to the exclusive use by the board, its members, officers, investigators, agents, and attorneys in evaluating the applicant's eligibility or disqualification for licensure. No such information or records related thereto will, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

New law provides that if an application is rejected, notice from the board to the applicant will state the reasons for such rejection and the applicant's right to a compliance hearing.

Effective August 1, 2016.

(Amends R.S. 37:2659; adds R.S. 37:2659.1)

### **Plumbers (Act 515)**

New law creates a new licensure category for plumbers between the apprentice and journeyman levels - the tradesman plumber limited license - and requires the State Plumbing Board (Board) to adopt tests of qualifications for tradesman plumbers.

New law provides that a tradesman plumber may only repair existing plumbing systems in one- and two-family dwellings.

New law defines "tradesman plumber" as a natural person who possesses the necessary qualifications and knowledge to repair existing plumbing systems and is licensed by the Board to repair existing plumbing systems in one- and two-family dwellings at the direction of a master plumber, without the supervision of a journeyman plumber.

New law requires the Board, not later than January 1, 2017, create and maintain a registry of all apprentice plumbers employed in the state. New law requires that the Board to issue a certificate to all registrants.

New law requires that the Board issue a tradesman plumber limited license to any person who meets certain qualifications.

New law requires the Board to assist the Bd. of Supervisors of Community and Technical Colleges in developing training, program and course requirements that will prepare individuals to meet the qualifications established by the Board for a tradesman plumber limited license.

New law adds one tradesman plumber to the Board's membership.

New law authorizes the plumbing Board to establish reasonable examination, licensing, and renewal fees for tradesman plumbers and to establish a reasonable registration fee for apprentice plumbers.

Effective August 1, 2016.

(Amends R.S. 37:1361(B) and (E), 1366, 1367(A), 1368(A), 1371(A), 1373(A), 1377(B), and 1378)

### **Real Estate Activities (Act 533)**

New law provides that the La. Real Estate Commission (commission) may grant the following credentials: real estate broker license, real estate salesperson license, real estate school or vendor certification, timeshare interest salesperson registration, and real estate instructor approval/certification.

Prior law provided for the granting of general commission powers as to brokers and timeshare developers. New law includes all licensees, registrants, and certificate holders.

Prior law provided prohibitions for individual licensees, registrants, and certificate holders. New law provides that partnerships, limited liability companies, associations, and corporations are prohibited from conducting any real estate activities for valuable consideration without a license.

New law prohibits the creation of a timeshare plan without a license.

Prior law required four years experience as a real estate salesperson as a prerequisite for licensing. New law provides that for a broker's license two of the four years must immediately precede the application for a broker's license.

Prior law provided relative to liability of a timeshare developer for actions of brokers and timeshare salespersons. New law disallows a previous waiver of liability of timeshare developers for actions of brokers and timeshare salespersons on the basis that they operate as independent contractors.

Prior law provided with respect to the dissolution of a legal entity engaged in timeshare development. New law provides that upon dissolution of any legal entity in possession of a broker's license a duty to notify the commission within five days of the dissolution.

New law provides requirements for moving from an inactive license to active, including continuing education requirements.

New law provides specific guidelines for unlicensed entities not bound by the Louisiana Real Estate Licensing Law.

New law provides for individual, partnership, limited liability company, association, corporation and other legal entities in the provisions regarding issuance of licenses.

New law adds requirements regarding the licensing of brokers and salespersons as they function in the area of timeshare properties.

New law provides requirements particularly regarding the termination of sponsorship of associate brokers and salespersons.

New law revises fee schedule and adds certain fees, particularly as to active and inactive licenses and real estate schools, vendors, and pre-license instructors.

Prior law provided relative to the death of a sponsoring broker. New law provides that the commission may appoint an active license

broker to complete transactions pending at the time of the death.

Effective August 1, 2016.

(Amends R.S. 37:1433, 1435, 1436, 1437, 1437.1, 1437.2, 1437.3, 1438, 1439, 1441, 1443, 1446, 1449, 1451, 1465, 1466(F))

#### **Addiction Counseling (Act 534)**

Prior law, relative to the practice of addiction counseling, prohibited a certified addiction counselor from practicing independently and rendering a diagnostic impression.

New law allows a certified addiction counselor to practice independently when providing addiction counseling services in a prison or other custodial environment, but retains the prohibition against rendering a diagnostic impression.

Effective August 1, 2016.

(Amends R.S. 37:3387.1(A))

#### **Acupuncture (Act 550)**

Old law required the La. State Board of Medical Examiners (LSBME) to certify, as an acupuncturist of traditional Chinese acupuncture, a physician licensed to practice medicine in Louisiana who has successfully completed specified training.

New law deletes the reference to traditional Chinese acupuncture and changes the certification title from acupuncturist to physician acupuncturist.

Old law provided that the board shall certify, as an acupuncture detoxification specialist, an individual who works under the general supervision of a licensed physician, or under the general supervision of a certified acupuncturist's assistant, and has successfully completed the required training.

New law changes the required supervision by a certified acupuncturist's assistant to supervision by a licensed acupuncturist.

New law changes the certification title from acupuncturist's assistant to licensed acupuncturist.

Old law required the LSBME to formulate rules and regulations that it deems necessary to regulate the certification of acupuncturists and acupuncturists' assistants and the practice of traditional Chinese acupuncture in La.

New law replaces present law with broad authorizations to the LSBME to implement the law.

Old law authorized the LSBME to certify as an acupuncturist's assistant an individual who has been appointed or employed at a licensed or accredited La. hospital, medical school, or clinic to perform acupuncture for research purposes. New law repeals old law.

(Amends R.S. 37:1356, 1357, 1357.1, 1358, 1359, and 1360)

#### **Accounting (Act 553)**

New law clarifies and simplifies the present law definition of "attest" and specifically includes engagements performed in accordance with Standards of the Public Company Accounting Oversight Board ("PCAOB").

New law adds a definition of "CPA-Retired" for those professionally licensed individuals who retire, meet certain criteria, and wish to perform uncompensated volunteer services.

New law further defines "good moral character" to include the propensity to provide professional services in a fair, honest, and open manner.

New law defines "preparation of financial statement" as an engagement by a licensee to prepare financial statements for an entity, but not to perform a compilation, review, or audit with respect to those financial statements and as provided in the American Institute of Certified

Public Accountants' (AICPA's) Statement on Standards for Accounting and Review Services.

New law generally increases the fee schedule.

New law requires an applicant for licensure to have attained the age of 18 years.

New law eliminates the education requirement for an applicant to complete at least 150 semester hours of college education to apply for the CPA examination.

New law requires an applicant for licensure to complete at least 150 semester hours of college education. New law requires the applicant to meet the education requirement by December 31st of the 5th calendar year following successful completion of the examination, or the examination scores will be voided.

New law adds that the retired CPA granted the privilege shall place the word "retired" adjacent to their CPA title on various forms of communication similar to the inactive CPA.

New law modifies the requirement for a CPA firm that does not have an office or place of business in the state of La. to allow the firm to perform attest services in this state, provided that the firm meets the ownership, peer review, and individual licensee requirements.

New law requires nonlicensee owners of a CPA firm to be of good moral character.

New law removes the requirement to register each office within the state and to show that attest services rendered in the state are under the charge of a person holding a valid active certificate.

New law clarifies that firms providing attest services shall be enrolled in a board-approved peer review program. New law provides recognition and approval of the American Institute of Certified Public Accountants ("AICPA") peer review program. New law approves other nationally recognized peer review programs and peer review standards that

are not less stringent than the AICPA peer review program.

New law provides approval of administration of the AICPA program by the Society of La. Certified Public Accountants, and other state CPA societies fully involved in the administration of the AICPA program.

New law provides recognition and approval of the PCAOB's permanent inspection process for engagements subject to the permanent inspection program of the PCAOB.

New law modifies language requiring firms to make peer review and PCAOB inspection results available to the board.

New law changes present law relative to certain operation of firms. New law provides 24 months, instead of 12 months, following the date of the death of a firm's sole owner for the firm to continue to operate. New law provides for the firm permit to be renewed annually for the continuance of the firm.

New law adds that the board may require a licensee or privilege holder to subject its work product to pre-issuance review by a licensee acceptable to the board.

New law 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 present law and new law.

Present law requires licensees receiving a commission or referral fee, or expecting to pay a referral fee, to disclose such payment to the client. New law removes the requirement for licensees to disclose the fact, in writing, prior to the receipt or payment of such commission or referral fee.

New law provides that all formats of the licensee's working papers and client records, including paper and electronic, regardless of storage location, are subject to the provisions of present law and new law.

New law provides that information prepared pursuant to a preparation of financial statement engagement is included in the scope of engagements under the privity of contract.

New law provides that those individuals granted practice privileges under substantial equivalency provisions can only perform attest services through a firm meeting the requirements provided in present law and new law.

New law repeals certain present law provisions relative to the exception of licensees from certain periodic review and the board's authority to promulgate certain rules.

(Amends R.S. 37:73, 74.1, 75, 76, 77, 77.1, 79, 83, 84(B), 85, 86(C), and 91(B); adds R.S. 37:87(D) and 94(A)(4))

#### **Medical Board (Act 584)**

New law changes the composition of the La. State Board of Medical Examiners.

Effective August 1, 2016.

(Amends R.S. 37:1263; repeals R.S. 37:1264 and 1265)

#### **Nursing Board (Act 598)**

New law changes the composition of the La. State Board of Nursing (board).

Effective August 1, 2016.

(Amends R.S. 37:914(B)(1), 916, 917, and 927(A); adds R.S. 37:920(B)(3))

#### **Military Engineers (Act 616)**

Prior law provided that a military-trained applicant shall be issued a license, certification, or registration by the state engineering board if the applicant has received a military occupation specialty in engineering.

New law 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.

Effective August 1, 2016.

(Amends R.S. 37:3651(A)(1))

#### **Cosmetology (Act 611)**

New law provides for the regulation of blow dry technicians by the La. State Board of Cosmetology (board) and defines "blow dry technician" as an individual who provides blow drying hair services.

New law provides that an applicant for a license of blow dry technician is subject to the same qualifications and fees applicable to cosmetologists, but such applicant is not subject to the required number of instruction hours for cosmetologists.

New law provides for the regulation of mobile salons by the board and defines a "mobile salon" as a self-contained facility, where cosmetology is practiced for a fee, that may be moved, towed, or transported from one location to another.

New law provides that beginning on June 1, 2017, the board may issue a certificate of registration for the operation of a mobile salon to any applicant who submits an application on a form approved by the board, pays all required fees, and is determined to be in compliance with laws governing the practice of cosmetology.

New law provides that all requirements that apply to a beauty shop or salon shall also apply to mobile salons, except to the extent that the requirements conflict with new law or with any rules adopted by the board pursuant to new law.

New law provides that any mobile salon owner who is not a licensed cosmetologist shall employ a manager who is a licensed cosmetologist and who shall not be absent from the salon more than two working days per week.

New law provides for the renewal of certificates of registration for every mobile salon owner.

New law establishes fees for mobile salons for the initial certificate of registration and each annual renewal of such certificate.

Effective August 1, 2016.

(Amends R.S. 37:563, 589(A), 590(A)(1), and 599(A)(2)(f); adds R.S. 37, 575(A)(17) and 591.1)

### **Telemedicine and Telehealth (Act 630)**

Prior law required that a physician practicing telemedicine in La. do all of the following:

- (1) Use the same standard of care as he does in person.
- (2) Possess an unrestricted license to practice medicine in Louisiana.
- (3) Upon the patient's consent, has access to his records.
- (4) Maintain a physical office within the state or an arrangement with a physician who maintains a physical office within the state, for the purpose of referrals and follow up visits when necessary.

New law deletes requirement (4) above and adds:

- (4) Create a medical record on each patient and make the record available to the La. State Board of Medical Examiners upon request.
- (5) If necessary, provide a referral to a physician in this state or arrange for follow-up care in this state as may be indicated.

New law authorizes physicians practicing telemedicine and healthcare providers delivering telehealth services to utilize interactive audio, without the requirement of video, in cases in which, after review of the patient's medical records, the physician or other healthcare provider determines that he is able to meet the

same standard of care as if the care was provided in person.

New law provides that venue in any lawsuit filed involving care rendered via telehealth or telemedicine shall be proper in the district court for the parish in which the patient resides or in the district court for the parish where the patient was physically located during the provision of the telehealth or telemedicine service. New law provides that the patient is considered physically located at the originating site as defined in existing law.

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 37:1271 and R.S. 40:1223.3(5) and 1223.4(A); adds R.S. 40:1223.5)

### **Dietetics and Nutrition Board (Act 636)**

Old law required the La. Board of Examiners in Dietetics and Nutrition ("board") to be domiciled in Baton Rouge. New law repeals old law.

Old law authorized the board to issue a provisional license to any resident dietitian/nutritionist who presents evidence to the board of receipt of a baccalaureate or higher degree with a major course of study in human nutrition, food and nutrition, dietetics, or food systems management. Old law authorized the board to renew the provisional license from year to year for a period not to exceed five years.

New law removes the residency requirement, requires satisfactory completion of a program of experience of not less than 900 hours supervised by a licensed dietitian or nutritionist or registered dietitian, and limits the renewal to a maximum of two years.

Old law established a set fee schedule for license applications, renewals, and reissuances. New law repeals old law and authorizes the board to establish a reasonable fee schedule.

(Amends R.S. 37:3084, 3087(A), and 3089)

### **Massage Therapy (Act 645)**

New law adds trigger point massage as a type of massage therapy.

New law requires the La. Board of Massage Therapy (board) to provide an initial inspection of all newly licensed massage establishments within 90 days of the date of application.

New law prohibits unlicensed support personnel from purporting to be a licensed massage therapist or offering standalone massage services to the public, unless the massage services are provided in massage clinics during the course of massage therapy education and training approved by the Board of Regents.

New law requires the board to receive test scores for an applicant with out-of-state credentials directly from the issuing agency of the exam.

New law requires proof of citizenship or legal residency for an applicant with out-of-state credentials by the applicant providing an original government-issued form of identification. New law requires the board to verify the validity of the identification.

New law requires applicants to pass an English proficiency test if the person is transferring an out-of-state license.

Beginning with the 2017 renewal cycle for licenses, new law requires persons who received a license by transferring an out-of-state license since Jan. 1, 2013, to show proof of all of the new law licensing requirements.

New law requires advertisements containing pictorial representations of massage therapy, including video representations, to have depictions of massage therapists who are attired and posed in a manner as to avoid appealing to the prurient interest. New law requires persons representing clients to be appropriately draped and posed.

New law authorizes state, municipal, or city enforcement representatives or officials to enforce provisions of law applicable to massage

therapists and establishments. New law prohibits such representatives or officials from imposing any additional rules or ordinances regarding zoning, educational requirements, or fees for licensure.

New law repeals an old law provision that exempted an out-of-state applicant from taking a certain board-approved 500-hour course and national examination.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 37:3552(10), 3556; adds R.S. 37:3555(C), 3558(E), 3560, 3561(F), 3564(C), and 3567(C); repeals R.S. 37:3556.1)

### **TITLE 38: PUBLIC CONTRACTS, WORKS AND IMPROVEMENTS**

#### **Coastal Protection Projects (Act 373)**

New law provides an exception to the prohibition of closed specification of products to be used in the construction of public buildings or projects, for products required as part of an integrated coastal protection project for the evaluation of new and improved integrated coastal protection technologies.

(Amends R.S. 38:2290)

#### **Hurricane Protection System (Act 459)**

Existing law provides that the responsibility for maintenance and operation of the hurricane protection system within specified parishes shall be assumed by the West Jefferson Levee District, the Orleans Levee District, Plaquemines Parish, and St. Charles Parish.

New law replaces St. Charles Parish with the Lafourche Basin Levee District.

Effective August 1, 2016.

(Amends R.S. 38:101(C) and 103(B))

### **Selection of Professional Service Providers (Act 489)**

New law specifies that the geographic proximity of the physical location of the office of the otherwise qualified applicant to the physical location of the job or project shall be included in the list of selection guides used by the professional services selection boards that select applicants for professional services employment.

Effective July 1, 2016.

(Amends R.S. 38:2313)

### **Public Purchases (Act 510)**

New law extends the option of purchasing materials, supplies, vehicles, and equipment through an existing public contract of a political subdivision to the state and all political subdivisions of the state.

New law authorizes the state and all political subdivisions of the state to rely on a certificate of the political subdivision that the contract was bid in compliance with state law.

(Amends R.S. 38:321.1(A)(intro. para.) and (B))

### **Washington Parish Reservoir District (Act 513)**

New law prohibits the board from having authority to expropriate by eminent domain any additional immovable property.

New law requires all board meetings be conducted pursuant to the open meetings law.

New law requires notice of all meetings of the board be posted on the website maintained by the parish governing authority of Washington Parish no later than 72 hours prior to the meeting.

Effective August 1, 2016.

(Amends R.S. 38:3087.194(A) and 3087.201; adds R.S. 38:3087.197(D) and 3087.206)

### **DOTD Public-Private Partnership Contracts (Act 519)**

Prior law provided that it is the policy of Louisiana that the state, agencies and political subdivisions select providers of design professional services on the basis of competence and qualifications for a fair and reasonable price, and further prohibited the use of price or price related information as a factor in the selection process. Prior law made an exception to state policy for design-build contracts let by DOTD and certain political subdivisions, public-private partnership contracts let by the La. Transportation Authority (LTA), and certain port projects. New law adds to the exception public-private partnership contracts entered into by DOTD.

New law authorizes DOTD to solicit proposals for and enter into contracts for public-private partnership projects for a transportation facility, provided the department complies with current detailed provisions applicable to public-private partnership projects of the LTA, when the secretary determines a public-private partnership is in the best interest of taxpayers and with approval of the House and Senate transportation, highways, and public works committees.

New law requires that current provisions relative to the payment of a bond and the process for the payment of the claim of a contractor be applicable in the same manner as any other department projects.

New law requires that 25% of public-private partnership projects undertaken by DOTD be located outside the boundaries of a metropolitan planning area.

New law requires that solicitations for public-private partnership projects outside the boundaries of any metropolitan planning area be subject to the approval of the House and Senate committee on agriculture, forestry, aquaculture and rural development, in addition to the approval of the House and Senate committees on transportation, highways and public works.



New law prohibits the department from receiving an unsolicited proposal for a public-private partnership project.

Effective upon signature of the governor (June 13, 2016).

(Amends R.S. 38:2318.1(B); adds R.S. 48:250.4)

#### **Public School Purchases (Act 548)**

New law authorizes any public school district or public school to enter an agreement with a group purchasing organization for the purchase of materials, equipment, and supplies and installation with such purchases.

New law, relative to *materials and supplies*, requires that an agreement with such an organization require that the organization submit a price list and that the prices quoted remain in effect for a stated period of time, not less than three months. New law provides that any such price list shall be considered a valid and binding bid by the organization.

New law, relative to *equipment*, authorizes a school board to purchase equipment from such an organization if the price for such equipment is less than that for the same or substantially similar equipment on the state bid list.

New law provides that price lists submitted by a qualified group purchasing organization are not public records. However, new law provides that the agreement setting forth the existence of the price list and the effective date thereof is a public record and that the portion of the price list setting forth the materials or supplies being purchased becomes a public record at the time of opening of bids for those materials or supplies.

Effective August 1, 2016.

(Amends R.S. 38:2212.1(N))

#### **Public Bidding & Home Rule (Act 566)**

New law applies to municipalities with a home rule charter established after 1974 with a

population not less than 45,000 and not more than 48,000 persons as of the most recent federal decennial census. New law allows such municipalities to adopt a lower contract limit for public bidding pursuant to a home rule charter.

Effective August 1, 2016.

(Amends R.S. 38:2212(A)(1))

#### **Flood Protection Authorities (Act 572)**

New law changes a process by which the board of commissioners of the Southeast Louisiana Flood Protection Authority-East and Southeast Louisiana Flood Protection Authority-West Bank are nominated and appointed, and their terms of service and quorum requirements.

New law provides that after Jan. 1, 2018, the authority or any levee district within the territorial jurisdiction of the authority may divest itself of any drainage or pumping responsibilities that would otherwise fall to the responsibility of a parish governing authority.

Effective July 1, 2016.

(Amends R.S. 38:330.1; adds R.S. 38:330.2(A)(2)(c))

#### **Jefferson Parish Public Bids (Act 406)**

New law requires all persons bidding on public works in Jefferson Parish to submit all bid forms required by existing law to the governing authority of Jefferson Parish prior to the opening of all bids relative to a contract for public works.

Effective August 1, 2016.

(Amends R.S. 38:2212(B)(3)(b))

### **TITLE 39: PUBLIC FINANCE**

#### **Sales Taxes at Certain Stadiums (2nd E.S. Act 13)**

New law, with respect to *state sales and use taxes*, limits the exemptions for a state-owned domed facility or baseball facility or a domed

facility owned by a political subdivision or a university to specified services and tangible personal property.

Effective upon signature of governor (June 28, 2016).

(Amends R.S. 39:467 and 468)

### **Space in State Office Buildings (Act 66)**

Existing law provides that the division of administration (the division) is responsible for the allocation of space in state office buildings.

New law requires each agency to report any office space in state owned or leased buildings, and any unoccupied or underutilized office space in state owned or leased buildings, by location and square footage to the division by July 1st each year and update the information Jan. 1st.

New law requires the division to submit an annual report to the JLCB by March 1st on the amount of office space and the amount of underutilized office space in state owned or leased buildings, the amount of office space in buildings not owned or leased by the state, and a compilation of notices to agencies using leased space of available space and the agencies' responses required under new law.

New law requires the division to maintain a list of all office space in state owned or leased buildings by location and square footage and to identify and make available to all state agencies a list of all available or underutilized office space.

New law requires the division to notify the agency head of any agency using leased office space of alternative, state owned or leased space that the division has determined is suitable for the needs of the agency. New law requires the agency head to respond to the notice within 90 days. If the agency head does not submit a plan to move into the alternative space or does not move in the time indicated in the plan, notice must be submitted to the JLCB for consideration at its next meeting. The division shall compile

the notice and responses and include them in the annual report on office space required by new law.

Effective August 1, 2016.

(Adds R.S. 39:127.2)

### **Bond Sale Proceeds (Act 195)**

Prior law provided that if any premium is received for the sale of the bonds, the premium may be applied to the payment of the principal or to the interest on the bonds, and shall be deposited in the bank along with the taxes levied and collected for that purpose.

New law further provides that if premium is received it may also be used for any purpose for which the bonds are being issued and shall be deposited in the same account into which the bond proceeds are deposited.

New law further provides that if any accrued interest is received, any interest received in connection with any bonds shall be applied to the payment of the principal or to the interest on the bonds, and shall be deposited in the bank along with taxes levied and collected for that purpose.

New law provides that all laws or parts of law in conflict with new law are repealed.

Effective upon signature of the governor (May 26, 2016).

(Amends R.S. 39:571(A))

### **Legislative Ballot Procedure (Act 280)**

Existing constitution (Art. VII, Sec. 7) creates the Interim Emergency Bd. (IEB) which in some instances must obtain approval of the legislature to act.

New law specifies that if a member uses a system pursuant to existing law that allows the member to electronically vote and return his ballot, the member is not required to sign his ballot.

New law provides that the day and time of receipt of each ballot received after the deadline for returning ballots shall be recorded for each ballot, but need not be marked on the ballot.

Certain provisions of prior law provided that the IEB conducted the ballot procedure. New law provides instead that the clerk and secretary conduct the ballot procedure.

Effective August 1, 2016.

(Amends R.S. 39:77, 461.1, 461.4, and 461.5)

### **Services Contracts (Act 408)**

Existing law for FY 2015-2016 through FY 2017-2018, establishes a process for all professional, personal, and consulting services contracts totaling \$40,000 or more per year to be reported, reviewed, and approved by the JLCB. New law adds social services contracts to the types of contracts to be reported, reviewed, and approved by JLCB.

Prior law limited the reporting, reviewing, and approval of the contracts to those that were funded solely from state general fund (direct) or from the Overcollections Fund and were for discretionary purposes. New law removes such requirements.

Effective upon signature of governor (June 6, 2016).

(Amends R.S. 39:1590(A)(intro. para.))

### **Government Capital Budget Process (Act 419)**

New law adds the requirement that the application for any capital outlay budget request which receives funding in the capital outlay budget be updated each year that the project remains active in the budget process to reflect all changes in the project that occurred since the previous submission.

New law adds that the project application include the estimated local match requirement

and the amount of local match expended on the project.

New law further provides that the detailed project description for all statewide programs shall include details of the projects qualifying for funding through the programs proposed to be funded with the appropriations included in the capital outlay budget.

New law requires that any project receiving an individual appropriation in the capital outlay budget to submit a capital outlay application by the November first deadline, regardless if the project is eligible for funding through a statewide program.

New law requires the office of facility planning and control and any state agency authorized to administer capital outlay appropriations to submit to the Joint Legislative Committee on Capital Outlay, an annual written report no later than the first day of February, of each project included in the prior year's capital outlay budget.

(Amends R.S. 39:101(A), 102(B), and 111; Adds R.S. 39:105)

### **Competitive Sealed Bids and Proposals (Act 420)**

New law adds a requirement that a public entity provide a secure electronic interactive system for submission of competitive sealed bids and proposals. New law requires that the system be established using the same standards adopted for secure electronic interactive systems used for receiving bids for public works, as provided for in existing law.

New law provides for exceptions for:

- (1) Public entities currently without high-speed Internet access, until high-speed Internet access becomes available.
- (2) Any parish with a police jury form of government and a population of less than 20,000.

(3) Any city or municipality with a population of less than 10,000.

(4) Any public entity that is unable to comply with the electronic proposal submission provisions of new law without securing and expending additional funding.

Effective Aug. 1, 2016.

(Amends R.S. 39:1594(C)(5) and (D) - (I) and 1595(B)(4) and (6) - (12); adds R.S. 39:1594(J) and 1595(B)(13))

#### **Local Government Budget Process (Act 520)**

Existing law requires each political subdivision to cause to be prepared a comprehensive budget presenting a complete financial plan for each fiscal year for the general fund and each special revenue fund. New law provides that the proposed budget and the attendant budget adoption instrument may be amended to the extent deemed appropriate by the governing authority at any point prior to final adoption, unless otherwise provided in a municipal or parochial ordinance or home rule charter.

Prior law provided that all action necessary to adopt and otherwise finalize and implement the budget for a fiscal year shall be taken in open meeting and completed before the end of the prior fiscal year. New law adds the adoption of any amendments to the proposed budget.

Prior law provided that all action necessary to adopt and otherwise finalize and implement the proposed budget for a school board shall be taken in open meeting and completed prior to the date for budget adoption by school boards. New law adds the adoption of any amendments to the proposed budget.

Prior law provided that all action necessary to adopt and otherwise finalize and implement the proposed budget for a parish, shall be taken in open meeting and completed prior to the thirtieth day of the fiscal year for which the budget is to be applicable. New law retains prior law but adds the adoption of any amendments to the proposed budget.

New law provides that the adopted budget shall contain the same information as that required for the proposed budget.

New law adds any amendments adopted prior to final adoption by the governing authority as required disclosed information.

New law is deemed remedial and curative and intended to clarify existing law and should be afforded retroactive application.

Effective August 1, 2016.

(Amends R.S. 39:1303(C), 1309(A) and (C); adds R.S. 39:1302(4) and (5), 1305(F) and 1310(C))

#### **Executive Branch Employee Pay (Act 517)**

New law authorizes the Joint Legislative Committee on the Budget to regulate, control, or prohibit any personnel transactions.

New law prohibits 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 during the last 90 days of the last year of a governor's term, unless approved by the Joint Legislative Committee on the Budget. New law requires that other relevant provisions in current law shall be satisfied before any increase takes effect.

Effective July 1, 2016.

(Amends R.S. 39:84(D); adds R.S. 39:84(H))

#### **Jail Expansion (Act 561)**

New law requires that before there is an expansion of a state correctional facility, or a contract or other agreement with a local or private correction facility for the housing of individuals in the custody of the Dept. of Public Safety and Corrections, the secretary of the department shall prepare a detailed analysis reflecting the need for the expansion, as well as a recommended plan to remedy the shortage of housing.

New law shall not apply in West Carroll Parish.

New law requires that any contract by the department reflect the recommended plan jointly approved by the House Committee on Administration of Criminal Justice and Senate Committee on Judiciary B, and that any contract submitted for approval by the Joint Legislative Committee on the Budget be accompanied by a copy of the plan.

Effective July 1, 2016.

(Amends R.S. 39:1800.4(A) and (F); adds R.S. 15:834.2)

#### **Transfers to Eliminate Deficits (Act 576)**

New law 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 which reduced constitutionally protected funds or dedications which were approved by the JLCB to eliminate budget deficits.

Effective upon signature of the governor (June 17, 2016).

(Adds R.S. 39:82.1)

#### **Health & Social Services Estimating Conference (Act 586)**

New law changes the composition of the Health and Social Services Estimating Conference.

New law provides for a Medicaid Subcommittee of the conference responsible for developing forecasts and reviewing information related to the Medicaid Program.

Effective August 1, 2016.

(Amends R.S. 39:21.3)

#### **State Cash Management (Act 587)**

New law provides that all unexpended fees and self-generated revenues for which no bona fide liability exists on the last day of each fiscal year,

all unexpended appropriations of fees and self-generated revenues, interagency transfers, and self-generated revenues to be carried forward, shall be reported to the state treasurer on or before the 15th day following the last day of the fiscal year.

New law provides that the state treasurer shall compile the information submitted pursuant to new law into one report, and forward the report to the Joint Legislative Committee on the Budget (JLCB).

New law provides that it applies to any state department, agency or budget unit, even those which are not required to deposit its funds in the state treasury.

New law provides that all state agencies shall report all banking and checking accounts and the balances in each account quarterly to the cash management review board.

New law provides that the review board make a quarterly written report to the JLCB relative to the banking and checking accounts of all state agencies.

New law provides that the JLCB shall forward a copy of the reports that it receives from the review board, with whatever changes it deems necessary, to the Revenue Estimating Conference for its use in estimating fees and self-generating revenues for the official forecast.

New law provides that the state depositing authority shall provide written notice to the cash management review board in addition to the state treasurer upon opening any type of account.

Effective upon signature of the governor (June 17, 2016).

(Amends R.S. 39:372 and R.S. 49:320.1; adds R.S. 39:82(K))

#### **State Contracting (Act 589)**

New law provides that information on all state procurement contracts and the information

contained in the state chief procurement officer annual report shall be published on the division of administration's website for access and ease of use.

New law creates the Contract Services Joint Legislative Task Force (task force) which is authorized to study, review, and make assessments on contracts.

New law relative to the Contract Services Joint Legislative Task Force shall become void on June 30, 2020.

Effective July 1, 2016.

(Amends R.S. 39:1590; adds R.S. 39:1567(B)(3) and (4) and (F))

#### **State Funds (Act 601)**

New law provides for the transfer, deposit, and use of monies among numerous state funds, including the Deepwater Horizon Economic Damages Collection Fund and the Department of Justice Legal Support Fund.

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 39:91(A), R.S. 47:302.2, and R.S. 49:259 and C.Cr.P. Art. 895.1; adds R.S. 17:1519.6(E))

#### **Revenue Stabilization Trust Fund (Act 639)**

New law establishes the Revenue Stabilization Trust Fund as a special treasury trust fund.

New law provides for the allocation of annual mineral revenues between \$660 million and \$950 million and mineral revenues that are required to be deposited into the Budget Stabilization Fund but are not because the fund is at its maximum.

New law includes severance taxes, royalty payments, bonus payments, or rentals in the definition of mineral revenues, excluding nonrecurring revenues, grants or donations when the terms or conditions require otherwise, and

revenues from a tax on the transportation of minerals.

New law deposits into the fund corporate income and franchise tax revenues over \$600 million received during the fiscal year.

New law deposits into the state general fund all interest and other income earned on investments of the fund.

New law prohibits any appropriations from the fund, with an exception for the following:

(1) In any fiscal year in which the balance of the fund at the beginning of the year is in excess of \$5 billion (the minimum fund balance), the legislature may appropriate an amount not to exceed 10% of the fund balance (the allowable percentage), for the following purposes:

(a) Capital outlay projects in the comprehensive state capital budget.

(b) Transportation infrastructure.

(2) The legislature may authorize an appropriation from the fund at any time for any purpose subject to consent of 2/3 of the elected members of each house of the legislature.

New law provides that 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.

Effective if and when the proposed amendment of Article VII of the Constitution of La. contained in the Act 679 of this 2016 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Adds R.S. 39:100.111, 100.112, and 100.115)

#### **Deficit Elimination Fund (1st E.S. Act 3)**

New law provides for the creation of the Fiscal Year 2015-2016 Deficit Elimination Fund, and requires that this fund be comprised of noncoastal restoration monies.

New law provides that the first \$200 million of receipts from the state's Deepwater Horizon litigation are to be deposited into the Fiscal Year 2015-2016 Deficit Elimination Fund.

(Amends R.S. 39:91)

#### **Preference for Veterans in Purchasing (Act 670)**

Existing law provides for methods of source selection that may be utilized by state agencies to satisfy a state goal for contracting with veteran and service-connected disabled veteran-owned small entrepreneurship.

Prior law authorized 10% of the total evaluation points in a request for proposal to be awarded to an offeror who was a certified veteran and service-connected disabled veteran-owned small business entrepreneurship.

New law changes prior law relative to the awarding of 10% of the total evaluation points to certain veterans from a permissive option to a mandatory requirement.

New law exempts proposals for design-build or construction manager at risk methods of construction from the new law requirements.

Effective Aug. 1, 2016.

(Amends R.S. 39:2175(6))

#### **Budget Stabilization Fund (Act 656)**

New law eliminates the suspension of the deposit of monies in excess of the expenditure limit into the Budget Stabilization Fund.

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 39:94(C)(4)(b))

## **TITLE 40: PUBLIC HEALTH AND SAFETY**

#### **Adult Residential Care – Flu Information (Act 28)**

New law requires adult residential care providers to provide educational information on influenza no later than Sept. 1 of each year and in accordance with the latest recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

New law shall not be construed to require any adult residential care provider to provide or pay for any immunization against influenza.

Effective August 1, 2016.

(Adds R.S. 40:2166.9)

#### **Concealed Handguns (Act 44)**

New law exempts veterans of the U.S. armed forces from all fees associated with concealed handgun permits.

Effective August 1, 2016.

(Amends R.S. 40:1379.3(W))

#### **Controlled Dangerous Substances (Act 62)**

New law amends provisions of the Uniform Controlled Dangerous Substances Law regarding Schedule II and Schedule IV substances to bring La. law into compliance with federal law regarding controlled dangerous substances, including the addition of certain substances.

Effective August 1, 2016.

(Amends R.S. 40:964(Schedule II)(A); adds R.S. 40:964(Schedule IV)(E)(3))

#### **Medical Marijuana (Act 96)**

Prior law provides for medical marijuana to be prescribed. New law changes "prescribed" to "recommended."

Prior law provided that medical marijuana can be prescribed for glaucoma, symptoms resulting from the administration of chemotherapy cancer treatment, and spastic quadriplegia.

New law changes the disease states to debilitating medical conditions (cancer, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity, Crohn's disease, muscular dystrophy, or multiple sclerosis).

New law will no longer apply to any debilitating medical condition for which the U.S. Food and Drug Administration (U.S. FDA) approves the use of medical marijuana in the same form provided for in new law. New law will continue to apply to any debilitating medical condition for which the U.S. FDA approves the use of medical marijuana or a derivative in a form not provided for in new law.

New law requires a patient to first be treated by the approved form or derivative of medical marijuana through utilization of step therapy or fail first protocols. If the physician determines that the preferred treatment required under step therapy or fail first protocol has been ineffective in the treatment of the patient's debilitating medical condition, he may prescribe the form of medical marijuana pursuant to new law for use by the patient as medically necessary.

New law adds a definition of "recommend" or "recommended" as an order from a physician domiciled in La. and licensed and in good standing with the La. State Board of Medical Examiners and authorized by the board to recommend medical marijuana that is patient specific and disease-specific and is communicated by any means allowed by the La. Board of Pharmacy to a La.-licensed pharmacist in a La.-permitted dispensing pharmacy, and is preserved on file as required by La. law or federal law regarding medical marijuana.

Prior law requires the recommending physician to be licensed to practice medicine in this state. New law requires the recommending physician to be licensed by the La. State Board of Medical

Examiners, in good standing with the board, and domiciled in La.

New law clarifies that the LSU Agricultural Center and the Southern University Agricultural Center shall have separate licenses if they exercise their right of first refusal and that they need to make that determination by Sept. 1, 2016. New law authorizes these agricultural centers to conduct research on marijuana for therapeutic use if licensed as a production facility.

New law adds authorization for the Dept. of Agriculture and Forestry to obtain criminal history record information on applicants for licensure as a producer of therapeutic marijuana.

New law requires rules promulgated by the Dept. of Agriculture to require food-grade ethanol extraction to be used in order to mitigate the risk of bacterial contamination. New law further requires the rules to require the extraction and refining process to produce a product that is food safe and capable of producing pharmaceutical-grade products.

New law provides a separate effective date for certain provisions, and that if the U.S. DEA reclassifies marijuana from a Schedule I drug to a Schedule II drug, new law will change from authorizing the recommendation by a physician for use of medical marijuana to a prescription by a physician for use of medical marijuana.

Certain provisions of new law authorizing the recommendation by a physician for use of medical marijuana will be effective upon signature of the governor.

(Amends R.S. 40:1046; adds R.S. 40:1047)

### **Abortion - Physician Qualifications (Act 98)**

Old law provided that no person shall perform or induce an elective abortion unless that person is a physician licensed to practice medicine in this state and is currently enrolled in or has completed a residency in obstetrics and gynecology or family medicine.



New law revises present law to provide that no person shall perform or induce an elective abortion unless that person is a physician licensed to practice medicine in this state and is *board-certified* in obstetrics and gynecology or family medicine, or is or is enrolled in a residency program for obstetrics and gynecology or family medicine and only performs or induces an abortion under the direct supervision of a physician who is board-certified in obstetrics and gynecology or family medicine.

New law defines "direct supervision" to mean that the physician must be present in the hospital, on the campus, or in the outpatient facility, and immediately available to furnish assistance and direction throughout the performance of the procedure, but need not be present in the room when the procedure is performed in order to maintain direct supervision.

(Amends R.S. 40:1061.10(A)(1))

#### **Abortions - Waiting Period (Act 97)**

Existing law requires that prior to an elective abortion being performed or induced, all of the following pre-abortion functions must properly occur at least 24 hours prior to the abortion procedure:

- (1) performance of an obstetric ultrasound examination,
- (2) provision of information to the woman on psychological impacts of abortion, illegal coercion, abuse, and human trafficking,
- (3) provision of oral information, printed materials, and completion of certification functions.

New law requires that these pre-abortion functions occur at least 72 hours prior to the abortion procedure, except in the case of a woman who certifies that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility to her residence, in which case the 24-hour period applies.

Effective August 1, 2016.

(Amends R.S. 40:1061.10(D)(2), 1061.16(B), 1061.17(B), and 1061.18(D))

#### **Disposition of Miscarriages (Act 59)**

New law requires a health facility, prior to the final disposition of a miscarried child, but not more than 24 hours after the miscarriage occurs in the facility, to notify the patient, or, if the patient is incapacitated, the spouse of the patient, both orally and in writing, of both of the following:

- (1) The parent's right to arrange for the final disposition of the child through the use of the notice of parental rights form.
- (2) The availability of a chaplain or other counseling services concerning the death of the child, whether provided by the facility or another provider.

New law grants the patient a period of 48 hours from receipt of the notice to elect to arrange for the final disposition of the child. Upon receipt of the parent's decision for final disposition, new law requires the health facility to make the remains available to transfer for a minimum of 72 hours, or else the health facility shall dispose of the remains in accordance with rules and regulations promulgated by the Dept. of Health and Hospitals.

New law limits civil liability for health facilities or any person authorized to act on behalf of a health facility when acting pursuant to new law.

New law requires health facilities to provide notice in accordance with new law beginning Jan. 1, 2017.

Effective upon signature of governor (May 10, 2016).

(Adds R.S. 40:1191.1-1191.4)

### **Underground Utility Notification (Act 85)**

Relative to underground utilities, existing law requires the Dept. of Public Safety and Corrections (DPS&C) to establish a certification program for regional notification centers in this state in accordance with various requirements.

New law clarifies that the requirements are for the purposes of promoting cost effectiveness, ease of use, safety, and the protection of property, workmen, and citizens from damage, injury, and death. New law adds specifically defined geopolitical services areas that are coterminous with parish boundaries and do not overlap any other defined service area to the nonexclusive list of requirements. New law shall apply only to certain regional notification centers identified in existing law.

Effective upon signature of governor (May 11, 2016).

(Amends R.S. 40:1749.18(B))

### **Child Death Review (Act 118)**

Present law provides for the Louisiana State Child Death Review Panel, within the Department of Health and Hospitals (DHH).

Present law provides that the age range of children whose deaths are subject to investigation by the panel, variably, is under 14 and 14 or below. New law provides that the age range of children whose deaths are subject to investigation by the panel is under 15.

New law changes the composition of panel members.

New law provides that:

(1) The state panel, and any local or regional panel or its agent thereof is authorized to have access to any information, documents, or records in the possession of the Department of Children and Family Services (DCFS) involving a child abuse and neglect investigation which are pertinent to the alleged child abuse or neglect that led to the death of the child.

(2) DCFS is authorized to have access to any and all information, documents, or records in the possession of the state panel, and any local or regional panel or its agent thereof, for use by the department in any investigation or child in need of care proceeding.

New law stipulates that no information, document, or record obtained by the state panel or any local or regional panel or its agent from DCFS involving a report which results in an inconclusive, not justified, or invalid finding shall be included or referenced in any manner in any report or other document issued or published by or on behalf of the panel.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 40:2019)

### **Housing Authority of Oil City (Act 127)**

New law adds the Housing Authority of Oil City to those housing authorities whose employees are not in the state civil service.

Effective August 1, 2016.

(Adds R.S. 40:539(C)(8)(e))

### **Automated External Defibrillator (Act 128)**

New law requires each high school in any parish with a population of more than 200,000 and less than 225,000 to keep an automated external defibrillator on its premises.

(Amends R.S. 40:1137.3(E)(2))

### **Birth and Death Certificates (Act 158)**

Present law prohibits an employee of the state from disclosing data contained in vital records, except as authorized by law. New law authorizes the state registrar to disclose the contents of birth and death certificates to law enforcement upon request.

(Amends R.S. 40:41(B))

### **Dispensing Restriction Exceptions (Act 192)**

Prior law provided that the only exception to dispensing restrictions was if the prescription monitoring information from the state of the prescriber may be viewed by the dispensing pharmacist. New law provides an additional exception if the prescriber includes on the prescription that it is for a patient with a diagnosis of cancer or terminal illness.

Effective upon signature of the governor (May 26, 2016).

(Amends R.S. 40:978(E)(3))

### **Pharmacies (Act 189)**

New law authorizes the La. Board of Pharmacy to provide by rule for retention, archiving, and destruction of prescription monitoring information.

Effective August 1, 2016.

(Adds R.S. 40:1006(G))

### **DHH and Fire Marshall (Act 157)**

Present law requires the Department of Health and Hospitals (DHH), in consultation with the fire marshal, to develop and adopt rules to implement the process for the fire marshal to conduct such reviews for plans or specifications of a facility licensed, certified, or seeking licensure or certification by DHH.

New law redesignates the rule making authority from DHH to the fire marshal and provides for the fire marshal to develop and adopt rules in consultation with DHH.

(Amends R.S. 40:1563(L)(2))

### **Nursing Homes and ARCPs – Disease Warnings (Act 155)**

New law requires the La. Dept. of Health and Hospitals (DHH) to provide nursing homes and adult residential care providers with educational information on shingles and pneumonia annually

through the posting of a link to its website where the information can be downloaded by the licensed nursing homes and licensed adult residential care providers.

New law requires the nursing homes and adult residential care providers to disseminate the educational information to their residents.

New law shall not be construed to require any nursing home or adult residential care provider to provide or pay for any immunization against the varicella-zoster virus or pneumonia.

Effective August 1, 2016.

(Adds R.S. 40:2011 and 2166.9)

### **Obesity Commission (Act 186)**

Prior law provided that the legislative authority for the Louisiana Obesity Prevention and Management Commission ceases to exist on March 31, 2016. New law changes the date to March 31, 2018.

Effective August 1, 2016.

(Amends R.S. 40:2018.4(H))

### **Concealed Handgun Permits (Act 212)**

Existing law provides for the issuance of concealed handgun permits and provides for eligibility requirements.

Prior law provided 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.

New law provides that 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.

Effective August 1, 2016.

(Amends R.S. 40:1379.3(C)(6) and (10))

### **Paternity and Child Support (Act 217)**

New law repeals the provision in the Vital Records Law regarding allegations of paternity for child support purposes.

(Repeals R.S. 40:34(E))

### **Citation Correction (Act 2297)**

New law changes a statutory reference to reflect the current, correct statutory reference for the definition of "sex offense".

Effective Aug. 1, 2016.

(Amends R.S. 40:1664.8(E))

### **Drug Paraphernalia (Act 246)**

New law decreases penalties for crimes involving the possession of drug paraphernalia to make those penalties consistent with penalties for possession of marijuana.

(Amends R.S. 40:1025(A), (B), and (C))

### **Excavation (Act 245)**

New law amends the definition of "excavation" or "excavate". New law removes an element of intent by deleting the phrase "for the purpose of" from the definition. Further, new law makes an illustrative list of examples and provides for additional circumstances to be included in the definition of "excavation" or "excavate". New law provides an exception to exclude certain circumstances resulting as a consequence of any force majeure, act of God, or act of nature.

New law adds Memorial Day and Christmas Eve to the list of holidays to be observed by regional notification centers.

Effective upon signature of governor (May 26, 2016).

(Amends R.S. 40:1749.12 and 1749.13)

### **Pediatric Day Health Care Facilities (Act 254)**

Existing law provides for licensure and regulation of pediatric day health care facilities, defined as a facility that may operate 7 days a week, not to exceed 12 hours a day, to provide care for medically fragile children under the age of 21, including technology-dependent children who require close supervision.

New law requires the Department of Health and Hospitals (DHH) to implement a moratorium on additional licenses for pediatric day health care facilities.

New law provides that the moratorium shall apply only to applications for new facilities not approved prior to July 1, 2016, shall become enforceable on July 1, 2016, and shall remain in effect until July 1, 2017.

New law provides that the moratorium shall not apply to replacement of existing facilities.

New law provides an exception to the moratorium in cases in which a prospective pediatric day health care facility certifies to DHH that it will accept no payment for services that is funded wholly or in part by state funds, including but not limited to reimbursement from the state Medicaid program. New law provides that no pediatric day health care facility which DHH licenses pursuant to this exception may enroll as a Medicaid provider.

Effective July 1, 2016.

(Adds R.S. 40:2193.5)

### **Temporary Housing for Temporary Workers (Act 262)**

New law requires any temporary housing being provided to house temporary workers to comply with the provisions of existing law regulating industrialized buildings.

New law shall not apply to one- or two-family dwellings, manufactured homes, or other commercial structures being lawfully used to house temporary workers.

Effective August 1, 2016.

(Adds R.S. 40:1730.56(D))

### **Dismemberment Abortions (Act 264)**

New law provides that "dismemberment abortion" means, with the purpose of causing the death of an unborn child, to purposely dismember a living unborn child and extract him or her one piece at a time from the uterus through use of clamps, grasping forceps, tongs, scissors, or a similar instrument that, through the convergence of two rigid levers, slices, crushes, or grasps a portion of the unborn child's body to cut or rip it off or apart.

New law provides that the term does not include an abortion which uses suction to dismember the body of an unborn child by vacuuming fetal parts into a collection container, although it does include an instance in which a dismemberment abortion is used to cause the death of an unborn child and suction is subsequently used to extract fetal parts after the death of the unborn child.

New law provides that it shall be unlawful for any person to intentionally perform or attempt to perform a dismemberment abortion and thereby kill an unborn child unless necessary to prevent serious health risk to the unborn child's mother.

New law provides that none of the following persons shall be liable for performing or attempting to perform a dismemberment abortion:

(1) The woman upon whom an abortion is performed or attempted.

(2) A nurse, technician, secretary, receptionist, or other employee or agent who is not a physician but who acts at the direction of a physician, and no pharmacist or other individual who is not a physician but who fills a prescription or provides instruments or materials used in an abortion at the direction of or to a physician.

New law provides that whoever violates the provisions of new law shall be fined not more than \$1,000 per incidence or occurrence, or imprisoned for not more than two years, or both.

New law provides that failure to comply shall provide:

(1) A basis for a cause of action for civil damages for injuries and wrongful death, whether or not the unborn child was viable at the time the abortion was performed, or was born alive, except that such causes of action shall only be maintained by certain persons.

(2) A basis for professional disciplinary action under existing law relative to licensure of physicians and regulation of the practice of medicine.

New law authorizes courts, when requested, to allow a woman to proceed in a cause of action pursuant to new law using solely her initials or a pseudonym; and to close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed.

New law provides that any person who is not a physician or not otherwise legally authorized by the state to perform abortions, but who nevertheless directly performs a dismemberment abortion, shall be subject to the provisions of new law.

New law provides that nothing therein shall be construed as creating or recognizing a right to abortion, or a right to a particular method of abortion.

Effective August 1, 2016.

(Adds R.S. 40:1061.1.1)

### **Birth Certificates (Act 270)**

New law provides that a short-form birth certificate card can be purchased only by an individual who also purchases a long-form birth certificate in the same transaction.

Effective upon signature of the governor (May 27, 2016).

(Amends R.S. 40:39.1(B)(1) and 46(C))

### **Medical Review Panel Procedure (Act 275)**

Present law requires notice of confirmation of receipt of a request for review by a medical review panel be mailed to the claimant by certified mail, return receipt requested, within 30 days of receipt of the claim. Old law provides that the claimant shall have 45 days from the date of mailing of the confirmation to pay a \$100 filing fee for each named defendant.

New law changes the commencement of the period within which to pay the filing fee from 45 days from the date of mailing the confirmation to 45 days from the date of receipt of the confirmation by the claimant.

Present law provides that if any notification by certified mail, return receipt requested, is not claimed or is returned undeliverable, the board shall provide such notification by regular first class mail, which date of mailing shall have the effect of receipt of notice by certified mail.

New law specifies that if the board or commission is unable to determine after 45 days from the date of mailing of the notification, whether notification by certified mail, return receipt requested, has been received by the claimant, or the notification is not claimed or is returned undeliverable, the board shall provide such notification by regular first class mail, which date of mailing shall have the effect of receipt of notice by certified mail.

(Amends R.S. 40:1231.8 and 1237.2)

### **Investigational Medicine for the Terminally Ill (Act 355)**

New law provides that nothing in existing law shall be construed as creating a cause of action by or on behalf of any person against a manufacturer of an investigational drug, biological product, or device, or against any person or entity involved in the care of an eligible patient using the investigational drug, biological product, or device, for any harm done to the eligible patient resulting from the investigational treatment.

Effective August 1, 2016.

(Amends R.S. 40:1169.5)

### **Family Caregiver Act (Act 351)**

New law establishes the Louisiana Family Caregiver Act. New law requires hospitals to give a patient the opportunity to identify a caregiver upon discharge planning. New law provides for notice to the designated caregiver and provides for hospital instructions to the caregiver and patient record documentation.

New law provides for noninterference with existing laws on healthcare directives or any other legally authorized rights regarding healthcare decisions. New law shall not create a cause of action against a hospital, hospital employee, duly authorized agent of the hospital, or any consultant or contractor of the hospital.

New law provides that a hospital, hospital employee, or any consultant or contractor of the hospital will not be liable, vicariously or otherwise, to any patient or caregiver under certain circumstances. New law prohibits the caregiver from receiving compensation.

Effective August 1, 2016.

(Adds R.S. 40:1226.1-1226.7)

### **Nursing Home Surveys (Act 385)**

New law establishes a process that must be followed by the Department of Health and Hospitals if an immediate jeopardy violation is identified by a surveyor at a licensed nursing home. New law provides for an opportunity for the administrator to speak with a department supervisor prior to the surveyor exiting the facility, the issuance of a warning notice that immediate action is required due to possibility of significant CMS fines, and that any immediate jeopardy violations identified after the surveyor has left the facility must be brought to the administrator's attention on an expedited basis.

Effective August 1, 2016.

(Adds R.S. 40:2009.10.1)

### **Birth Certificate Fees (Act 390)**

Prior law authorized district court clerks and the clerk of the Second City Court of the city of New Orleans to issue certified copies of long-form birth certificates. Required the clerk of court to collect, in addition to fees collected for issuance of copies of birth records or death certificates, a five dollar fee for a short form and nine dollars for a long form which the clerk pays to the state registrar.

New law increases the fee from nine dollars to nineteen dollars for a long form.

Effective August 1, 2016.

(Amends R.S. 40:39.1(B))

### **Naloxone and Other Opioid Antagonists (Act 370)**

Existing law provides for the prescribing and dispensing of naloxone or another opioid antagonist to a third party who is not the individual to whom the opioid antagonist will be administered.

New law further authorizes a person or organization acting pursuant to a standing order issued by a healthcare professional who is

authorized to prescribe naloxone or another opioid antagonist, to store naloxone or another opioid antagonist and dispense naloxone or another opioid antagonist if such activities are performed without charge or compensation.

New law authorizes any person to lawfully possess naloxone or another opioid antagonist.

Existing law requires a licensed pharmacist to dispense naloxone or another opioid antagonist prescribed, directly or by standing order, by a licensed medical practitioner.

New law authorizes a licensed pharmacist to dispense naloxone or another opioid antagonist pursuant to a nonpatient-specific standing order as provided for in rules promulgated by the La. Board of Pharmacy.

Effective upon signature of governor (June 5, 2016).

(Amends R.S. 40:978.2; adds R.S. 40:978.2(G) and (H))

### **Telehealth (Act 417)**

New law adds licensed dietitian or nutritionist to the list of healthcare providers who may use telehealth technology, subject to regulation by the appropriate licensing board.

Effective August 1, 2016.

(Amends R.S. 40:1223.3(3))

### **Liquefied Petroleum Gas Commission (Act 422)**

New law requires the rules and regulations adopted by the Louisiana Liquefied Petroleum Gas Commission (commission) be available on the commission's website.

Present law provides that an assessment in the amount of five one-hundredths of one percent of the gross annual sales of liquefied petroleum gas is levied on each person who holds a Class I or a Class IV permit. New law adds Class VI permit holders to the class of permit holders.

New law changes composition of board to advise the commission on the expenditure of funds collected by this assessment.

Prior law provided that a referendum to terminate the assessment shall be called by the commission upon receipt of a petition signed by more than 50% of those Class I and Class IV permit holders subject to the assessment. New law repeals prior law.

(Amends R.S. 40:1846(C) and 1851)

### **High School Defibrillators (Act 425)**

Present law provides that each high school that participates in interscholastic athletics shall have an automated external defibrillator (AED) on its premises, if funding is available.

New law deletes references to interscholastic athletics and funding availability, and thereby provides that each high school shall have an AED on its premises. This requirement shall become operative and enforceable on Jan. 1, 2018.

New law repeals prior law requiring any person or entity that possesses an AED to notify the bureau of emergency medical services of the Dept. of Health and Hospitals of the acquisition, location, and type of AED.

(Amends R.S. 40:1137.3(B) and (E)(2))

### **Sewerage System Waivers (Act 439)**

New law requires the Dept. of Health and Hospitals, office of public health, under specified conditions, 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 according to the latest federal decennial census.

(Adds R.S. 40:1281.26)

### **Contracting with Abortion Entities (Act 304)**

New law provides that no institution, board, commission, department, agency, official, or employee of the state, or of any local political subdivision thereof, shall contract with, award any grant to, or otherwise bestow any funding upon an entity or organization that performs abortions, or that contracts with an entity or organization that performs abortions, in Louisiana.

New law provides that the prohibition shall apply to state funds, federal funds, and any other funds that may be used for purposes of contracting for services, providing reimbursements, or grant issuance.

New law provides that the prohibition shall not be construed to restrict funding to an entity that may perform the following types of abortions, exclusively:

- (1) An abortion which is medically necessary to prevent the death of the mother.
- (2) An abortion in a case when the mother is a victim of rape or incest.
- (3) An abortion performed when the pregnancy is diagnosed as medically futile.

New law provides that "medically futile" means that, in reasonable medical judgment, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 40:1061.6(A); adds R.S. 36:21)

### **Medical Marijuana (Act 343)**

New law adds that the following persons are not subject to prosecution for possession or distribution of marijuana under prior law:

- (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 prior law relative to medical marijuana for a condition enumerated in prior law.

(2) Any person or persons, either temporarily or permanently, responsible for the care of a person who is aged or any adult with a physical or mental disability.

(3) 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 prior law for a condition enumerated in prior law pursuant to a legitimate medical marijuana prescription or recommendation.

New law provides that this defense must be raised in accordance with prior law relative to valid prescriptions for controlled dangerous substances, and 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.

Effective August 1, 2016.

(Adds R.S. 40:966(I))

### **Substance Abuse & Mental Health Services (Act 344)**

Prior law provided for exceptions relative to facilities operated solely to provide substance abuse or mental health services to specialty courts.

New law provides that the provisions of prior law shall not be considered to permit the provision of behavioral health services by persons who are not properly licensed, certified, registered, or credentialed.

Effective upon signature of the governor (June 2, 2016).

(Amends R.S. 40:2154)

### **Background Checks (Act 311)**

New law authorizes Dept. of Health and Hospitals (DHH) to receive the criminal history record and identification files of any person or the owner of a 5% or greater ownership interest in an entity who has applied to enroll as a Medicaid provider.

New law requires the La. Bureau of Criminal Identification and Information (bureau) to forward the person's fingerprint card and other identifying information to the Federal Bureau of Investigation for a national criminal history check.

New law adds additional categories of healthcare services providers to the list of employers required to perform a background check on prospective employees.

New law authorizes an employer to request that the criminal history check be performed using the fingerprints of the applicant. New law authorizes each applicant for employment, upon request of the employer, to be fingerprinted and to submit the fingerprint samples for use in the criminal history check.

New law requires employers subject to the provisions of new law to contract only for staffing services provided by businesses who comply with the provisions of new law.

New law requires businesses that provide contract staffing services to healthcare providers to comply with the provisions of new law and to send accompanying letters certifying that the contracted staff meet license or certification standards of their profession and have undergone and passed criminal background checks.

Effective upon signature of governor (June 2, 2016).

(Amends R.S. 40:1203.1, 1203.2, and 2009.2; adds R.S. 15:587(A)(1)(i))

### **Possession of Firearms (Act 340)**

Prior law provided that whenever a defendant is shown to have or to have had possession of any firearm upon which the number or mark was obliterated, removed, changed, or altered, that possession is sufficient evidence to authorize a conviction unless the defendant explains it to the satisfaction of the court.

However, in the case of *State v Taylor*, 396 So.2d 1278, 1281 (La. 1981), the La. Supreme Court held that the presumption of guilt in prior law was unconstitutional. New law deletes the portion of prior law that was held unconstitutional.

Effective August 1, 2016.

(Amends R.S. 40:1788(B))

### **Baton Rouge Ambulance Task Force (Act 493)**

New law establishes the Ambulance Transport Alternatives Task Force to assist and advise DHH on the establishment of a pilot program in East Baton Rouge Parish to transport non-emergency 9-1-1 patients to destinations other than a hospital emergency department.

Effective upon signature of the governor (June 13, 2016).

(Adds R.S. 40:1135.13)

### **Physician Order Form (Act 486)**

Prior law provided that "Louisiana Physician Order for Scope of Treatment" means a form which documents the wishes of a qualified patient in a physician order, and verbally specified the wording and information requirements for each section and field of the form.

New law replaces the verbal directives in prior law as to the form's content with a visual representation of the actual LaPOST form to be used, which essentially includes the information

required in prior law. Primary changes to the required form are as follows:

(1) Specifies that LaPOST complements an Advance Directive and is not intended to replace that document.

(2) Adds field for a medical record number.

(3) Adds statement that use of the form is voluntary and that the signatures on the form indicate that the physician's orders are consistent with the patient's medical condition and treatment plan, and are the known desires or in the best interest of the patient.

Effective upon signature of the governor (June 13, 2016).

(Amends R.S. 40:1155.2; adds R.S. 40:1155.2.1)

### **Concealed Handgun Permits (Act 465)**

New law 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 which prohibits the subject of the order from possessing a firearm for the duration of the injunction or protective order, may apply for the issuance of a temporary concealed handgun permit.

New law provides that the person shall apply in accordance with specified requirements.

New law provides that the temporary concealed handgun permit shall have certain legal characteristics.

New law provides that the failure to carry a copy of the permanent injunction or the protective order at all times the person is carrying the concealed handgun shall render the temporary concealed handgun permit invalid.

New law requires the department to conduct a background check prior to the issuance of a concealed handgun permit.

Effective August 1, 2016.

(Adds R.S. 40:1379.3.2)

### **Amusement Rides (Act 462)**

New law provides relative to the Amusement Rides Safety Law and makes extensive changes to existing law and repeals provisions of prior law. Some of the more interesting changes are:

New law prohibits the use of inflatable amusement devices, amusement attractions, and amusement rides when they have not been properly registered, have not received a proper and timely certificate of inspection, or have not received a set-up inspection.

New law authorizes the state fire marshal to administer and enforce the Amusement Rides Safety Law.

New law requires certain 3rd-party inspection of inflatable amusement devices, amusement attractions, and amusement rides.

New law requires a 3rd-party inspector to provide notice to the fire marshal when an inflatable amusement device, amusement attraction, or amusement ride does not comply with certain inspection requirements of new law.

With respect to inflatable amusement devices, new law applies to those inflatable amusement devices that are: (1) open to the public, (2) located on grounds other than those of a 1- or 2-family dwelling, and (3) co-located with other amusements, attractions, or rides.

New law requires an owner or operator to have a set-up inspection conducted on all inflatable amusement devices, amusement attractions, and amusement rides at least once prior to their operation at each event. New law provides for the set-up inspection to be conducted by a 3rd-party inspector or an employee of the owner or operator who is specially trained to perform a set-up inspection.

New law prohibits a person or firm from engaging in the testing and inspection or operation of an inflatable amusement device, amusement attraction, or amusement ride unless

the person or firm holds a current and valid license as provided in new law.

New law prohibits a person or firm from testing and inspecting an inflatable amusement device, amusement attraction, or amusement ride if such person or firm is also the owner or operator of the device, attraction, or ride.

New law prohibits a 3rd-party inspector from engaging in 3rd-party inspections unless the inspector has licensed engineering experience in materials testing or certain other certifications as required in new law.

New law authorizes the fire marshal to adopt administrative rules allowing the owner of an inflatable amusement device, amusement attraction, or amusement ride, or an employee of the owner to perform minor service and repairs of such device, attraction, or ride.

The provisions of new law are inapplicable to an officer or employee of the U.S., the state of La., or any political subdivision of either, while engaged in the performance of his official duties within the course and scope of his employment.

New law requires the designated agent of a firm or an individual to notify the fire marshal within 10 days of a change in the business address of the firm, or a change in ownership or interest in the firm, and in the case of an individual, a change that constitutes separation from an employer or change in employer.

New law prohibits an individual licensed as provided in new law from contracting his services as an independent contractor or agent with any other firm, whether such firm is engaged in testing and inspection or operation.

New law requires the attainment of a license and respective endorsement to perform the set-up inspection of an inflatable amusement device, amusement attraction, or amusement ride. New law authorizes employees of the owners or operators of such a device, attraction, or ride to become licensed to perform the set-up inspection.

New law provides a cost of \$20.00 to transfer an individual license from one firm to another.

Existing law prohibits a "person" from operating an amusement attraction or ride unless the person has either a policy of insurance in an amount of not less than \$1,000,000.00 that provides certain coverage against the operator's liability for injury suffered by persons, or a bond in the amount of \$1,000,000.00, provided the aggregate liability of the surety does not exceed the face amount of the bond. New law changes "person" to "owner or operator" and adds "inflatable amusement device" to the provisions of existing law.

Effective August 1, 2016.

(Amends R.S. 40:1484.1-1484.28, 1485.2; Adds R.S. 40:1485.9)

#### **Shaken Baby Syndrome (Act 506)**

New law requires every birthing center, hospital, and licensed midwife in this state to share resources with each maternity patient and father of a newborn child, if available, regarding shaken baby syndrome and sudden unexpected infant death.

New law requires the Department of Health and Hospitals (DHH) to promulgate all administrative rules as are necessary to implement the provisions of new law, including rules that designate the compendium of resources approved for use that address various topics.

New law requires DHH to ensure that all approved resources are publicly available, through the department's website or any other means, to the facilities and persons to which new law applies.

Effective August 1, 2016.

(Adds R.S. 40:1086.1-1086.4)

#### **Krabbe Disease (Act 507)**

New law requires all newborns to be screened for Krabbe disease, unless the parents object.

New law requires the Dept. of Health and Hospitals to develop and maintain certain information regarding Krabbe disease on its website.

(Amends R.S. 40:1081.2(A)(1); Adds R.S. 40:1081.11)

#### **Abortion -- Genetic Abnormality (Act 563)**

New law provides that the term "abortion" shall not include an abortion performed when the pregnancy is diagnosed as medically futile, meaning that, in reasonable medical judgment, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth. This diagnosis shall be a medical judgment certified in the pregnant woman's medical record by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

New law provides that "genetic abnormality" means any defect, disease, or disorder that is inherited genetically, including, without limitation, any physical disfigurement, scoliosis, dwarfism, Down syndrome, albinism, amelia, and any other type of physical, mental, or intellectual disability, abnormality, or disease.

New law provides that it shall be unlawful for any person to intentionally perform or attempt to perform an abortion of an unborn child of 20 or more weeks post-fertilization age with knowledge that the pregnant woman is seeking the abortion solely because the unborn child has been diagnosed with either a genetic abnormality or a potential for a genetic abnormality.

New law provides that it shall be unlawful for a person to intentionally perform or attempt to perform an abortion of an unborn child of less than 20 weeks post-fertilization age without first

providing the pregnant woman with an informational document including resources, programs, and services for women who have a diagnosis of fetal genetic abnormality and resources, programs, and services for infants and children born with disabilities.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 40:1061.1.1)

### **Medical Marijuana (Act 567)**

Existing law requires the Dept. of Agriculture and Forestry to develop an annual, nontransferable specialty license for the production of prescribed marijuana for therapeutic use and to limit the number of licenses granted in the state to no more than one licensee.

New law establishes an annual license fee of \$100,000 for the license to produce marijuana for therapeutic use, and a nonrefundable application fee of \$10,000.

New law mandates that the Dept. of Agriculture and Forestry receive an amount not to exceed 7% of the gross sales of therapeutic marijuana.

Effective August 1, 2016.

(Adds R.S. 40:1046(J)(9))

### **Abortion -- Disposition (Act 593)**

New law provides that each physician who performs or induces an abortion shall insure that the remains of the child are disposed of by interment or cremation in accordance with laws relative to disposition of human remains.

New law deletes prior law requiring that the attending physician inform each woman upon whom he performs or induces an abortion of the provisions of law relative to disposal of fetal remains.

New law provides that it shall be unlawful for any person or entity to buy, sell, donate, accept,

distribute, or otherwise transfer or use for any purpose the intact body of a human embryo or fetus whose death was knowingly caused by an induced abortion, or the human organs, tissues or cells obtained from a human embryo or fetus whose death was knowingly caused by an induced abortion.

New law stipulates that nothing therein shall be construed to prohibit certain specified conduct.

New law stipulates that nothing therein shall be construed to alter generally accepted medical standards, affect existing federal or state law regarding the practice of abortion, or to create or recognize a right to abortion.

New law provides that any provision thereof which is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event such provision shall be deemed severable and shall not affect the remainder of new law or the application of such provision to other persons not similarly situated or to other dissimilar circumstances.

Effective August 1, 2016.

(Amends R.S. 40:1061.25)

### **Drinking Water Fee (Act 605)**

Existing law requires the Dept. of Health and Hospitals (DHH) to perform all inspections, tests, or procedures on public water supplies authorized by the administrator of the Environmental Protection Agency under the federal Safe Drinking Water Act, at no cost to any municipality, parish governing authority, or any public or privately owned water system, except as provided in prior law.

Prior law authorized DHH to charge an annual fee of \$3.20 per metered connection or account for community systems, to be collected from each consumer by the community system provider and remitted to the department, minus 32¢ per metered connection or account to be

retained by the community system provider for administrative costs for the collection of the fee.

New law increases the fee to \$12, which is to be collected in not less than quarterly installments, and authorizes each community system provider to retain 5%.

Effective January 1, 2017.

(Amends R.S. 40:31.33)

### **Copies of Medical Records (Act 627)**

New law provides that a patient, his legal representative, and certain other persons shall have a right to obtain a copy of the entirety of the medical records of the patient in the form by which they are stored.

New law provides that if records are stored in paper form, paper or digital copies shall be provided upon payment of a copying charge as provided by present law.

New law provides that if records are stored in digital format in the health care provider's electronic health record, copies shall be provided in digital format if they are requested in digital format and charged as provided by present law, but also specifies that the maximum \$100 charge only applies to copies stored in digital format.

Present law provides that the maximum authorized charges of \$100 for records and \$200 for X-rays and other imaging includes all postage and handling. New law excludes postage charges from the \$100 and \$200 maximum charges.

New law provides that if the treatment records are stored in both digital form and paper form, the maximum limit of \$100 shall only apply to the portion of records stored in digital form.

(Amends R.S. 40:1165.1(A)(2)(b)(i) and (ii))

## **TITLE 41: PUBLIC LANDS**

### **Public Benefit Corporations (Act 516)**

New law provides that a public benefit corporation that meets the requirements of prior law and new law is not required to advertise for and receive bids for other leases.

New law provides that fair and reasonable criteria shall be applied by the public benefit corporation with respect to negotiating and letting such leases and subleases. New law provides that, in addition to other factors, the public benefit corporation shall consider the highest return of revenue and benefits to the political subdivision.

Prior law provided that political subdivisions must have a beneficial interest in a public benefit corporation while indebtedness issued by the corporation to finance the acquisition, construction or improvement of property remains outstanding and must obtain full legal title to the property of the corporation with respect to which the indebtedness was incurred upon retirement of such indebtedness. New law eliminates prior law regarding indebtedness.

New law provides the procedures for any person or other entity who challenges, seeks to nullify, or seeks to enjoin a lease or sublease of immovable property owned, leased or controlled by a public benefit corporation.

New law provides that actions for a temporary restraining order or preliminary injunction shall be required to furnish security as required by C.C.P. Art. 3601, et seq.

New law provides that in any suit or appeal to challenge, nullify, or enjoin a lease or sublease of immovable property owned, leased, or controlled by a public benefit corporation, trial on the merits in the district court shall be set within 60 days of the filing of the suit and shall be given preference over all other matters on the court's calendar, and provides that the district court shall render a final judgment not more than 20 days after the conclusion of the trial.

New law provides that an appeal may be taken within 10 days of the rendition of the final judgment of the district court and shall be returnable to the appropriate appellate court not more than 30 days from the rendition of the final judgment.

New law provides that the appeal shall be heard with the greatest possible expedition and no later than 30 days from the return day of the appeal, and that the appellate court shall render its ruling on the merits within 60 days of the return day of the appeal.

New law further provides for terms of lease, including that in the city of New Orleans a lease or sublease shall be for a period not exceeding 99 years and shall provide for a rental payable in cash in a lump sum or installments.

New law provides that it shall be applicable to leases entered into by public benefit corporations after the effective date of new law, and to claims, suits or appeals pending on the effective date or filed on or after the effective date.

Effective upon signature of the governor (June 16, 2016).

(Amends R.S. 41:1212(G) and 1215)

## **TITLE 42: PUBLIC OFFICERS AND EMPLOYEES**

### **Term Limits for Boards in Executive Branch (Act 71)**

New law repeals prior law that placed various term limits on service on boards and commissions within the executive branch of state government.

Effective upon signature of governor (May 10, 2016).

(Amends R.S. 42:2 and R.S. 48:1805(B)(2); repeals R.S. 42:3.2)

## **Governmental Ethics - Fundraisers for Education (Act 87)**

Existing law generally prohibits public servants from receiving things of economic value from specified prohibited sources or for certain duties related to the public position, with various exceptions.

New law adds an exception to allow a public servant to accept complimentary admission to a fundraising event held by or for the benefit of an educational institution or by or for the benefit of a nonprofit organization that conducts educational programs, but excludes admission to any professional, semiprofessional, or collegiate sporting event from such exception.

Effective May 11, 2016.

(Adds R.S. 42:1123(13)(a)(iii))

## **Suits Against Public Officials – Attorneys Fees (Act 168)**

Prior law provided that any party who files suit against any duly elected or appointed public official of the state or of any of its agencies or political subdivisions for any matter arising out of the performance of the duties of his office (other than matters pertaining to the collection and payment of taxes and those cases where the plaintiff is seeking to compel the defendant to comply with and apply the laws of this state relative to the registration of voters), and who is unsuccessful in his demands, shall be liable to the public official for all attorney fees incurred by the public official in the defense of the lawsuit or lawsuits.

Prior law provided that the attorney fees shall be fixed by the court. Prior law provided further that the defendant public official shall have the right, by rule, to require the plaintiff to furnish bond as in the case of bond for costs, to cover such attorney fees before proceeding with the trial.

In the case of *Detraz v. Fontana*, 416 So.2d 1291, 1296-97 (La. 1982), the Louisiana Supreme Court held prior law to be

unconstitutional. New law repeals unconstitutional provisions.

Effective August 1, 2016.

(Repeals R.S. 42:261(E))

### **State Employment - Criminal History (Act 398)**

New law prohibits a state employer from inquiring about a prospective unclassified employee's criminal history until after the prospective employee has been given an opportunity to interview for the position or, if no such interview is to be conducted, until after the prospective employee has been given a conditional offer of employment.

New law provides that it does not prohibit a state employer from considering the criminal history of a prospective employee in making the final determination of whether to employ the person. New law provides that in considering the criminal history of the prospective employee, the state employer may consider the nature and gravity of the criminal conduct, the time that has passed since the occurrence of the criminal conduct, and the duties and functions of the position and the bearing the criminal conduct will have on the performance of those duties or functions.

New law does not apply to positions in law enforcement or corrections or to positions for which a criminal background check is required by law.

Effective August 1, 2016.

(Adds R.S. 42:1701)

### **Governmental Ethics - Financial Disclosure (Act 427)**

Prior law, relative to Tier 1 and Tier 2 personal financial disclosure statements, required each statement to be accompanied by an affidavit certifying that the information contained in the financial statement is true and correct. New law requires a certification, rather than an affidavit,

that the information contained in the financial statement is true and correct.

Effective January 1, 2017.

(Amends R.S. 42:1124(E) and 1124.2(E))

### **Financial Disclosure - Retirement System Directors (Act 410)**

Existing law requires certain board and commission members 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.

New law additionally requires the executive director or person holding the equivalent position of each public retirement system to file a Tier 2.1 personal financial statement.

Effective August 1, 2016.

(Adds R.S. 42:1124.2.1(A)(4))

### **Governmental Ethics – Attorneys (Act 518)**

New law provides an exception to prior law to allow a licensed attorney who serves as a member of a civil service commission, and any legal entity in which he exercises control or owns an interest, to receive a thing of economic value for or in consideration of legal services rendered or to be rendered to a classified employee under the jurisdiction of the civil service commission, if the legal services rendered or to be rendered do not involve a matter that is under the supervision or jurisdiction of the civil service commission.

New law requires such a civil service commission member to recuse himself from participating in any matter before the civil service commission involving any classified employee to whom he, or any legal entity in which he exercises control or owns an interest, is rendering legal services.

Effective August 1, 2016.



(Adds R.S. 42:1112.1)

### **Governmental Ethics -- Financial Disclosure (Act 559)**

New law removes the requirement that *income* received from the state or a political subdivision by a business in which a covered official or his spouse, individually or collectively, owns at least 10% be reported, and instead requires the reporting of each *contract* entered into by any business in which the official or his spouse, individually or collectively, 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.

Effective January 1, 2017.

(Amends R.S. 42:1124.3(C)(1))

### **TITLE 43: PUBLIC PRINTING AND ADVERTISEMENTS**

#### **State Publishing (Act 55)**

New law repeals provisions that require the secretary of state to print and deliver materials to the La. Historical Assoc.

(Repeals R.S. 43:231 and 232)

### **TITLE 44: PUBLIC RECORDS AND RECORDERS**

#### **Contractors Board Records (Act 382)**

New law adds an exception for records in the custody or control of the State Licensing Board for Contractors (board) concerning the fitness of a person to receive or continue to hold a license issued by the board. New law authorizes release of any record to the public in an administrative proceeding before the board. New law requires that any final determination by the board relative to the fitness of any person to receive or to continue to hold a license and any legal grounds

upon which the determination is based is a public record.

New law exempts any portion of an examination administered or to be administered by the board and any answers to the examination. New law authorizes any person who has taken an examination administered by the board to inspect his examination.

Effective August 1, 2016.

(Adds R.S. 44:4(51) and (52))

#### **Public Records Exception for Shorthand Reporters (Act 436)**

New law adds an exception to the Public Records Law covering records that concern the fitness of a person to receive or continue to hold a certificate relative to certified shorthand reporters and that are in the custody or control of the Bd. of Examiners of Certified Shorthand Reporters. New law provides that such a record may be released to the public in an administrative proceeding before the board. New law provides that any final determination made by the board relative to the fitness of any person to receive or to continue to hold such a certificate and any legal grounds upon which such determination is based shall be a public record.

Effective August 1, 2016.

(Adds R.S. 44:4(51))

#### **Records in Receivership Proceedings (Act 345)**

New law requires all working papers, recorded information, documents, and copies thereof produced, obtained or disclosed to the commissioner pursuant to receivership proceeding which is confidential or privileged pursuant to any other provision of law, to be given confidential treatment and not to be subject to subpoena or disclosed pursuant to the Public Records Law.

New law requires all working papers, recorded information, documents and copies thereof disclosed by the commissioner, or any other person, to the receiver pursuant to receivership proceeding which is confidential or privileged pursuant to any other provision of law, to be given confidential treatment and not to be subject to subpoena or disclosed pursuant to Public Records Law.

New law prohibits any limitation to the commissioner's authority to use any working papers, recorded information, documents, and copies thereof discovered or developed during the course of receivership proceedings.

Effective August 1, 2016.

(Amends R.S. 44:4.1(B)(11); adds R.S. 22:2045)

#### **Body-Worn Camera Records (Act 525)**

New law adds that video or audio recordings generated by law enforcement officer body-worn cameras that are found by the custodian to violate an individual's reasonable expectation of privacy are exempt from disclosure under the public records law.

New law provides that body-worn camera recordings that are determined by the custodian to violate an individual's reasonable expectation shall be disclosed upon a determination and order from a court of competent jurisdiction.

New law 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.

New law provides requests for production of recordings shall be incident specific and shall include reasonable specificity as to date, time, location, or persons involved, and authorizes custodian to deny a request not containing reasonable specificity.

New law allows the custodian to request payment of fees for making copies of public records in advance of production.

Effective August 1, 2016.

(Amends R.S. 44:32(C)(1)(a); adds R.S. 44:3(A)(8) and (I))

#### ***Public Records Custodian Disclosure (ACT 654)***

*New law requires each public body that has a custodian of public records to make the contact information of the custodian available to the public in a manner that will allow a member of the public to quickly determine the appropriate person to whom a public records request should be submitted, including by placing such information on the internet.*

*Effective August 1, 2016.*

*(Adds R.S. 44:33.1)*

### **TITLE 45: PUBLIC UTILITIES AND CARRIERS**

#### **PSC and Electric Utilities (Act 135)**

Existing law (R.S. 45:1163.2) provides for an electric utility's use of an authorized fuel adjustment clause to recoup from rate-paying customers the ongoing, actual costs of fuel and energy generation.

New law requires the La. Public Service Commission (commission) to audit the adjustment clause filings of a public electric utility, to review and make certain determinations regarding adjustment clause filings, and to modify fuel adjustment charges of an electric utility that assesses recoupment charges through operation of an authorized fuel adjustment clause.

New law requires the commission to provide such audits, reviews, determinations, and modifications no less frequently than every other year.

Effective August 1, 2016.

(Adds R.S. 45:1163(C))

### **Motor Carrier Fees (Act 433)**

Existing law requires certain motor carriers subject to the control of the Public Service Commission to pay certain fees for the inspection, control, and supervision of their business service and rates.

New law increases the fees of existing law by \$.07 per \$1000 for gross receipts in amounts ranging from \$1000 to \$100,000,000, and by \$.08 per \$1000 for gross receipts in excess of \$100,000,000.

Effective July 1, 2016.

(Amends R.S. 45:1177(A)(2))

### **Nonprofit Water Utility Cooperatives (Act 444)**

New law provides that any request for a change to the rate structure of a water cooperative that receives financing from the United State Dept. of Agriculture (USDA) shall be granted when specified requirements are satisfied.

New law provides that any request for a change to the rate structure of a water cooperative that receives financing from the Louisiana Department of Health and Hospitals (DHH) shall be granted when specified requirements are satisfied.

New law provides that any request for a change to the rate structure of a water cooperative that receives no financing from a lending entity, or that receives financing and the lending entity is neither the USDA nor DHH, shall be granted when specified requirements are satisfied.

New law provides that any request for a change to the rate structure of a water cooperative that receives financing from multiple lending entities shall be granted when the water cooperative obtains approval in accordance with one of the applicable provisions of new law.

New law provides that the provisions of new law apply only to water cooperatives that were eligible to receive financing from the USDA prior to January 1, 2011.

Effective upon signature of governor (June 9, 2016).

(Adds R.S. 45:1601-1603)

### **WiFi Hotspots (Act 532)**

New law prohibits wi-fi "hotspot" blocking. New law 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.

Effective August 1, 2016.

(Adds R.S. 45:844.74 and 844.75)

## **TITLE 46: PUBLIC WELFARE AND ASSISTANCE**

### **Credit Checks on Parents (Act 29)**

New law eliminates the requirement for the Dept. of Children and Family Services to notify an individual in writing 10 days prior to requesting that individual's consumer credit report with regard to child support payments.

Effective August 1, 2016.

(Amends R.S. 46:236.1.10(A))

### **Support Enforcement and Employers (Act 102)**

Existing law provides procedures for the enforcement of child support, spousal support, and medical support through income assignment orders.

New law requires employers to notify the Dept. of Children and Family Services, at least 15 days in advance, of lump-sum payments to employees who owe support if that lump-sum payment is \$300 or more.

Effective August 1, 2016.

(Adds R.S. 46:236.3(E)(6))

#### **Foster Care & Permanence Task Force (Act 117)**

New law creates the Foster Care and Permanence Task Force, including provisions for its composition, frequency of meetings, functions, and reporting.

New law terminates on January 1, 2018.

Effective August 1, 2016.

(Adds R.S. 46:2431-2434)

#### **Multi-Parish Judicial Districts (Act 119)**

Present law provides that any court in this state empowered to hear family or juvenile matters shall have jurisdiction over domestic abuse proceedings.

Present law provides that venue is proper in the parish where: (1) the marital domicile is located or where the household is located; (2) the defendant resides; (3) the abuse is alleged to have been committed; (4) the petitioner resides; or (5) an action for annulment of marriage or for a divorce could be brought under present law.

New law provides that in a judicial district comprised of multiple parishes, if a court determines that in the ends of justice to afford the parties a more expeditious hearing than current docketing scheduling would permit, or to comply with the time provisions provided for by present law, a judge or hearing officer may conduct a hearing in any parish within the judicial district.

(Amends R.S. 46:2133)

#### **Military Family Assistance (Act 185)**

Existing law provides for the La. Military Family Assistance Fund used to fund certain need based claims of family members of "activated military personnel."

Prior law defined "activated military personnel" as including a person domiciled in Louisiana for civilian purposes, names Louisiana as Home of Residence, and is a reserve member of the United States Army, Navy, Air Force, or Marine Corps, or certain members of the Louisiana National Guard.

New law adds that "activated military personnel" includes veterans of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, and changes the term "Home of Residence" to "Home of Record".

Effective August 1, 2016.

(Amends R.S. 46:121(1))

#### **Physician Credentialing by MCOs (Act 250)**

Existing law provides relative to credentialing of physicians who provide care to Medicaid patients through Medicaid managed care organizations.

New law adds requirements that, with respect to credentialing of a physician whose license is in probationary status pursuant to action by the La. State Board of Medical Examiners, no managed care organization shall terminate participation by that physician in the organization's provider network or disqualify the physician from initial credentialing based solely upon the probationary status of his license.

New law prohibits managed care organizations from terminating participation by a physician in a provider network unless such action is taken pursuant to an established credentialing committee procedure.

Effective August 1, 2016.

(Adds R.S. 46:460.63)

#### **Victim/Defendant Separation (Act 387)**

Prior law 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. Prior law provided a court must without exception provide a secure waiting area in cases involving violent crimes.

New law does not limit prior law to homicide victims' families only. New law provides that upon request of a victim, victim's family, or witness, and whenever possible, the court must provide designated seating in a courtroom for victims, victims' families, and witnesses that does not require them to be in close proximity to defendants, defendants' families, or witnesses for defendants.

Effective August 1, 2016.

(Amends R.S. 46:1844(G))

#### **Child Support Asset Service Appeal (Act 359)**

Present law allows the Dept. of Children and Family Services (DCFS), when there is a child support arrearage or an overpayment has been made to a custodial parent, to intercept, encumber, freeze, or seize specified payments or assets. Present law further provides that when DCFS exercises this right, it must notify the payor or custodial parent of its actions, and afford the payor or custodial parent an opportunity to appeal the seizing of the assets.

New law requires the appeal 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.

(Amends R.S. 46:236.15)

#### **Military Assistance Fund (Act 402)**

New law extends eligibility for the La. Military Assistance Fund to families of honorably discharged active duty military personnel, meaning a person domiciled in La. who was on full-time active duty in the military service of the U.S. and received an honorable discharge.

(Amends R.S. 46:121, 122, and 123)

#### **Agency Reports to Supreme Court (Act 426)**

New law requires the Dept. of Health and Hospitals and the office of elderly affairs to report to the La. Supreme Court any information in its possession concerning any adult who may be prohibited from possessing a firearm. The information shall be provided upon request of the court and in a reasonable time period.

Effective August 1, 2016.

(Adds R.S. 46:56.1)

#### **Ambulance Service Provider Fees (Act 305)**

Present law authorizes provider fees to be paid by certain healthcare providers.

New law establishes a provider fee for emergency ground ambulance service providers.

New law prohibits the amount of the initial fee from exceeding the total cost to the state of providing the healthcare service subject to the fee, and prohibits the amount of the fees imposed from exceeding 1.5% of the net operating revenue of emergency ground ambulance service providers.

New law provides for the use of the collected fees to pay enhanced reimbursements to emergency ground ambulance service providers.

New law establishes the procedure for changing the fee amount after the first year and prohibits the subsequent assessment from exceeding 3.5% of the net operating revenue of emergency ground ambulance service providers.

New law provides for the termination of the fee collection and the return of monies collected.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 46:2625.1)

### **Medicaid and Drugs (Act 339)**

New law changes composition of Medicaid Pharmaceutical and Therapeutics Committee.

Prior law provided that new drugs are available on the pharmacopia as soon as they are approved by the USDA and commercially available. New law states that new drugs may be added when approved by the USDA and the manufacturer enters into a federal Medicaid drug rebate program, if the department determines it is in the best interest of the medical assistance program.

New law clarifies that when a new drug reviewed by the committee is approved by the FDA, it shall be reviewed at the next committee meeting.

Effective upon signature of the governor (June 2, 2016).

(Amends R.S. 46:153.3)

### **Medicaid Provider Claims (Act 467)**

New law provides that administrative rules relative to the Medicaid provider claim review process shall provide procedures to ensure that providers receive or retain the appropriate reimbursement amount for claims in which the Department of Health and Hospitals (DHH) determines that services delivered have been improperly billed but were reasonable and necessary.

New law provides that if a payment for a claim is recouped by DHH, a contractor of DHH, or any other entity acting at the direction or under the authority of DHH, due to a determination more than 365 days from the date the service was provided, that the claim was improperly billed but the services were reasonable and necessary, DHH shall ensure that the provider is afforded additional time to refile a corrected claim for that portion of the amount recouped to the extent permitted by federal law.

Effective August 1, 2016.

(Amends R.S. 46:442; adds R.S. 46:437.4(A)(4))

### **Residential Facilities (Act 502)**

New law allows licensed specialized providers to house youths.

New law creates an exemption to allow a child of a person who is a resident of a residential home to reside with the parent at the same facility and adds that the children may remain at the facility in accordance with provisions of prior law and new law on extended stay for completion of certain educational programs.

New law provides an exemption for a child housed at a residential home that does not receive Title IV-E funding to remain in the home until his twenty-first birthday to complete any educational course begun at the facility, including a GED course, and any other program offered by the home.

New law prohibits any medical examination, immunization, or treatment of any youth aged 18 or above who objects to such examination, immunization, or treatment on religious grounds.

New law provides that each residential home and maternity home facility must have a written discipline policy, which must be made available to any youth aged 18 or above.

New law provides for the dissemination of information relative to the risks associated with influenza and information on influenza immunization to each youth aged 18 or above.

Effective August 1, 2016.

(Amends R.S. 46:1402, 1403(7), 1403.1, 1407, 1414.1(D), 1417, 1423, and 1428)

### **Nursing Home Fees and Medicaid Reimbursements (Act 675)**

Existing law establishes fees to be imposed on certain healthcare service providers. Prior law set the maximum fee for nursing facilities at \$10.00 per occupied bed per day.

New law changes the maximum fee amount to the percentage of net patient service revenues permitted by federal regulations as determined by the Dept. of Health and Hospitals (DHH) on a per occupied bed per day basis.

Prior law prohibited DHH from imposing any new fee or increasing any fee on any nursing home without prior approval of the specific fee amount by record vote of a majority of the elected members of each house of the legislature while in session. New law repeals prior law.

Prior law required the monies in the La. Medical Assistance Trust Fund to be allocated, with accompanying federal matching money, to each of the healthcare provider groups in proportion to the amount of fees collected from each group, based upon fees established by DHH pursuant to prior law.

New law requires the legislature to allocate monies in the fund in such manner only if the appropriation is eligible for federal financial participation under the Medicaid program. New law requires DHH to expend monies deposited into the fund only for the reimbursement of services to the provider group that paid the fee into the account in any fiscal year and provides that any expenditure from the fund for a purpose other than medical assistance payments for the providers paying the fee shall be void.

Effective August 1, 2016.

(Amends R.S. 46:2623 and 2625)

## **TITLE 47: REVENUE AND TAXATION**

### **More Bank Dividends Excluded From Corporate Income (1st E.S. Act 1)**

New law increases the amount of the corporate income exclusion for dividend income received from certain banking institutions from 72% to 100% of the amount of dividend income.

(Amends R.S. 47:287.71(B)(6))

### **Sales and Use Tax (1st E.S. Act 26)**

New law imposes a 1% state sales and use tax. The tax shall be levied beginning April 1, 2016, and will cease to be effective on October 1, 2017.

New law limits the application of numerous exclusions and exemptions to the existing 4% state sales and use tax.

(Amends R.S. 47:301, numerous provisions between 305 and 305.71, 315.1(A), 315.2(A); Adds R.S. 47:321.1)

### **Student Tax Credits (1st E.S. Act 21)**

New law repeals the Student Assessment for a Valuable Education (SAVE) credit program, which granted to students a credit against income, sales and use, gasoline and special fuel taxes equal to the individual amount of a SAVE assessment.

(Repeals R.S. 47:6039)

### **Sales Taxes on Remote Sellers (1st E.S. Act 22)**

New law expands the definition of "dealer" for purposes of the collection of the additional 4% state sales and use tax to include:

(1) The solicitation of business through an independent contractor or any other representative pursuant to an agreement with a La. resident under which the resident, for consideration of any kind, directly or indirectly, refers potential customers to the seller.

(2) Sale of the same or a substantially similar line of products as a La. retailer under the same or substantially similar business name.

(3) Holding a substantial ownership interest, directly or through a subsidiary, in a retailer maintaining sales locations in La. or who is owned in whole or in substantial part by a retailer maintaining sales locations in La.

(4) Solicitation of business or maintenance of a market in La. through an agent or other representative (affiliated agent), through an agreement with the dealer.

New law prohibits a La. retailer from collecting the additional 4% state sales and use tax in lieu of the sales and use tax levied by a political subdivision and remitted to the political subdivision.

New law prohibits the determination that certain business activities establishes a person as a dealer for purposes of sales and use tax from being used in a determination of whether the person is liable for the payment of state income or franchise taxes.

New law 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 the provisions of new law.

New law is applicable to tax periods beginning on and after April 1, 2016.

(Amends R.S. 47:302)

### **Order of Applying Tax Credits (1st E.S. Act 23)**

New law changes the ordering of the application of tax credits and requires refundable credits be applied before all other credits and payments of tax, except for nonrefundable credits with no carry forward, which will be applied first, and then refundable credits other than those for local inventory taxes paid. New law provides a different priority for refundable tax credits for local inventory taxes paid.

New law requires that refundable credits, other than credits for local inventory taxes paid, that can be applied against both income and corporate franchise tax, be applied to income tax first.

New law adds that:

(1) A tax credit cannot be claimed on a tax return or utilized as a payment prior to the effective date of transfer as reflected in the Tax Credit Registry, between the transferor and transferee.

(2) To claim a credit on a tax return, the effective date of transfer, as reflected in the Tax Credit Registry, must be on or before the due date of the return, inclusive of any extension.

(3) A credit acquired through transfer can be applied to any allowable tax liability that is due for the year the credit was originally earned or to any year due afterward until the applicable carryforward period is over.

New law is applicable to taxable periods beginning on or after January 1, 2016.

(Amends R.S. 47:1675)

### **Net Operating Loss (1st E.S. Act 24)**

Old law required net operating loss to be applied for purposes of reducing La. net income in order of the year of the loss, beginning with the earliest taxable year.

New law requires net operating loss from the most recent taxable year to be applied first.

Effective Jan. 1, 2017.

(Amends R.S. 47:287.86(C)(2))

### **Cigarette Tax (1st E.S. Act 4)**

New law levies an additional tax of 22¢ per pack of 20 cigarettes, thereby increasing the total tax per pack of 20 cigarettes from 86¢ per pack to \$1.08 per pack.

Effective April 1, 2016.

(Adds R.S. 47:841(B)(7))

### **Tobacco Taxes (1st E.S. Act 5)**

New law reduces the amount of the discount for the accurate reporting and timely remittance of



state excise taxes on tobacco products and the discount for stamping cigarettes from 6% to 5%.

Effective April 1, 2016.

(Amends R.S. 47:843)

#### **Net Operating Loss Deduction (1st E.S. Act 6)**

Present law provides for a deduction from corporate income tax for 72% of the amount of net operating loss incurred in La. New law prohibits the amount of the deduction from exceeding 72% of the value of La. net income.

Effective Jan. 1, 2016.

(Amends R.S. 47:287.86(A))

#### **Corporate Tax Rates Flattened (1st E.S. Act 8)**

New law deletes the graduated schedule of corporate income tax rates in favor of a flat 6.5% rate, thus raising taxes on corporations making less than \$100,000 and lowering taxes on most corporations making more than \$100,000. New law is applicable to all tax years beginning on and after Jan. 1, 2017.

Effective Jan. 1, 2017 if a proposed amendment of the Constitution of La. is adopted at a statewide election and becomes effective.

(Amends R.S. 47:287.12)

#### **Car Rental Taxes (1st E.S. Act 14)**

New law levies a 2.5% state and .5% local automobile rental tax on the proceeds derived from an automobile rental contract.

New law prohibits the tax being levied on:

- (1) rentals by an insurance company as a replacement vehicle for a policyholder.
- (2) rentals by an automobile dealer while a customer's vehicle is being serviced or repaired.
- (3) rentals by an individual while the individual's vehicle is being serviced or repaired.

Effective April 1, 2016.

(Amends R.S. 47:551)

#### **Sales Tax Collection (1st E.S. Act 15)**

New law imposes a \$1,000 per month limit on the amount of compensation authorized for a dealer (a/k/a "vendor") for the collection, accounting, and remittance of state sales and use taxes.

Effective April 1, 2016.

(Amends R.S. 47:306(A)(3)(a))

#### **Corporate Income Tax (1st E.S. Act 16)**

New law provides that for purposes of computing a corporation's La. net income, a corporation shall add-back otherwise deductible interest expenses and costs, intangible expenses and costs, and management fees directly or indirectly paid, accrued, or incurred in connection with one or more direct or indirect transactions with one or more related members. However, to the extent a corporation shows that the corresponding item of income was either subject to a tax based on or measured by the related member's net income in La. or any other state, or was subject to a tax based on or measured by the related member's net income by a foreign nation, that item of income would not be required to be added-back.

New law defines "subject to a tax based on or measured by the related member's net income" as the receipt of payment by the recipient related member that is reported and included in income for purposes of a tax on net income, and not offset or eliminated in a combined or consolidated return which includes the payor. Any portion of an item of income not attributed to the taxing jurisdiction, as determined by that jurisdiction's allocation and apportionment methodology, shall not be considered subject to a tax.

New law provides the adjustments shall not apply if a corporation establishes that the transaction giving rise to the interest expenses

and costs, the intangible expenses and costs, or management fees between the corporation and the related member did not have as a principal purpose the avoidance of any La. income tax.

New law exempts from the mandatory adjustments that portion of interest expenses and costs, intangible expenses and costs, and management fees that the corporation establishes was paid or incurred by the related member during the same taxable year to a person that is not a related member.

New law is applicable to all tax years beginning on and after Jan. 1, 2016.

(Adds R.S. 47:287.82)

#### **Income & Corporate Franchise Tax Credits (1st E.S. Act 29)**

Existing law reduces the amount of income and corporate franchise tax credits by 28%.

Prior law sunset the 28% reductions on June 30, 2018. New law changes the sunset date of the 28% reduction of the tax credits to June 30, 2018.

Effective April 1, 2016.

(Amends R.S. 47:227 and 6034 and §§7 and 8 of Act No. 125 of the 2015 R.S.)

#### **Corporate Income Tax Deduction for Federal Income Taxes (1st E.S. Act 30)**

Prior constitution and prior law authorized a state deduction for federal income taxes paid for purposes of computing corporate income taxes for the same period.

New law repeals the statutory authorization.

Applicable for all taxable periods beginning on or after Jan. 1, 2017.

Effective Jan 1, 2017, if the proposed amendment of Article VII of the Constitution of La. contained in Act No. 31 of the 1st E.S. of

2016 is adopted at a statewide election and becomes effective.

(Amends R.S. 47:93(A) and (B), 241, 287.69, 287.442(B)(1), 300.6(A), and 300.7(A); adds R.S. 47:55(6); repeals R.S. 47:287.79, 287.83, and 287.85)

#### **Sales Taxes on Residential Hotel Services (1st E.S. Act 17)**

New law adds persons who are engaged in collecting the amount required to be paid by a transient guest as a condition of occupancy at a residential location to the definition of "dealers" who must collect sales taxes.

New law expands the definition of "hotel" to include sleeping rooms, cottages, or cabins at a residential location, including but not limited to a house, apartment, condominium, camp, cabin, or other building structure used as a residence.

New law requires a dealer to remit to the Dept. of Revenue certain specified information.

(Amends R.S. 47:301; adds R.S. 47:306(A)(8))

#### **Telecommunications Taxes (1st E.S. Act 9)**

New law repeals provisions that reduce the tax on interstate and international telecommunications services from 2% to 1% effective April 1, 2016 thereby keeping the rate for these services at 2%.

Effective April 1, 2016.

(Amends R.S. 47:302(C) and 331(C)(1) and (2))

#### **Sales and Use Taxes – Raw Materials (2nd E.S. Act 3)**

Present law defines "sale at retail" to exclude the sale of materials for further processing into articles of tangible personal property. New law adds the following criteria for qualification for the exclusion:

(1) The raw materials become a recognizable and identifiable component of the end product.

(2) The raw materials are beneficial to the end product.

(3) The raw materials are materials for further processing, and as such, are purchased for the purpose of inclusion into the end product.

New law changes the definition of "sale at retail" to exclude the purchase of raw materials for the production of raw or processed agricultural, silvicultural, or aquacultural products.

New law provides that raw materials purchased for processing into a byproduct for sale shall not be deemed to be a sale for further processing, and the sale shall be taxable. Further, if a byproduct is sold at retail and sales and use tax has been paid by the seller on the cost of the base or raw materials, a credit is authorized in an amount equal to the sales tax collected by the seller on the taxable retail sale of the byproduct.

New law is intended to clarify the original intent of the special tax treatment of sales of materials for further processing, and thus new law shall be applicable to refund claims submitted or assessments of additional taxes due which were filed or issued on or after the effective date of proposed law.

New law is not applicable to claims for a refund or assessments of additional taxes filed or issued prior to the effective date of proposed law.

(Amends R.S. 47:301(intro. para.) and (10)(c)(i)(aa))

#### **Income & Corporate Franchise Tax Credits for Property Taxes on Inventory (2nd E.S. Act 4)**

Prior law provided for a tax credit against income and corporation franchise tax for 100% of the ad valorem tax paid to political subdivisions on certain inventory.

Prior law provided for full refundability of ad valorem taxes paid, for taxpayers whose total payments of ad valorem tax eligible for the credit is less than \$10,000. New law increases

the amount to be refunded from less than \$10,000 to less than \$500,000.

Prior law authorized refundability for 75% of the tax credit for ad valorem tax paid on inventory for taxpayers whose total payments of ad valorem tax eligible for the credit is \$10,000 or more, and provides for a nonrefundable credit for the remaining 25% of the credit that is in excess of the taxpayer's tax liability.

New law provides that if the ad valorem tax paid is more than \$500,000 but less than or equal to \$1,000,000, then the taxpayer is to be refunded 75% of the excess credit and the remaining 25% may be carried forward as a credit against subsequent tax liability for a five-year carry forward.

New law provides that for those taxpayers whose total payments of ad valorem tax eligible for the credit is more than \$1,000,000, the taxpayer is to be refunded 75% of the first \$1,000,000 of excess credit and the remaining amount of the credit shall be carried forward as a credit against subsequent tax liability for a five-year carry forward.

New law requires that taxpayers that are members of a federal consolidated group combine their inventory tax paid in order to determine the amount of the excess credit that is refundable.

New law limits refundability of the credit for business entities formed after April 15, 2016, that pay over \$10,000 and up to \$1,000,000 or less in ad valorem tax paid on inventory to 75% of tax paid.

Applicable to all tax returns and refund claims filed on or after July 1, 2016, but does not apply to amended returns provided that the credits were properly claimed on an original return filed before July 1, 2016.

Effective upon the signature of the governor (June 28, 2016).

(Amends R.S. 47:6006(B))

### **Inventory Tax Credits (2nd E.S. Act 5)**

New law permits use of ad valorem tax forms by the Department of Revenue for purposes of verifying eligibility for inventory tax credits.

New law provides that a "manufacturer" also includes a person who meets present law definition of manufacturer and who has claimed the ad valorem exemption under present constitution during the taxable year in which the local inventory taxes were levied. New law provides that such manufacturers and all related parties, affiliates, subsidiaries, parent companies, or owners of such manufacturers for the inventory held that is related to the business of such manufacturers may only carry forward for five years any excess credit amount in present law.

New law provides that the secretary shall promulgate rules to ensure that taxpayers affiliated with or related to any other entity through common ownership by the same interests or as a parent or subsidiary shall be considered one taxpayer for the purpose of the limitations on refundability provided for in new law.

New law applies to all claims for these credits on any return filed on or after July 1, 2016, regardless of the taxable year to which the return relates.

New law shall not apply to an amended return filed on or after July 1, 2016, provided that these credits were properly claimed on an original return filed prior to July 1, 2016.

Effective upon signature of governor (June 28, 2016).

(Amends R.S. 47:2327 and 6006)

### **Nonprofit Reporting on Exempt Sales (2nd E.S. Act 6)**

New law requires that certain nonprofits that sell exempt tangible personal property and services be subject to an annual reporting requirement based on transactions occurring during the

previous fiscal year, beginning July 1st of the preceding year and ending on June 30th of the current year.

New law specifically lists the transactions by nonprofits that are to be reported.

New law provides that these reporting requirements do not apply to nonprofit entities and their affiliates that are exempt from federal income taxes under §501(c)(3) of the Internal Revenue Code.

Effective on July 1, 2016.

(Adds R.S. 47:306.4)

### **Sales Tax Apportionment (2nd E.S. Act 8)**

#### Transportation by Aircraft

Prior law provided that the La. apportionment percent of any taxpayer whose net apportionable income is derived primarily from transportation by aircraft shall be calculated from the average of two ratios.

New law provides that for taxable periods beginning on or after Jan. 1, 2016, the La. apportionment percent of these taxpayers shall be computed by using only the ratio of gross apportionable income derived from La. sources to the total gross apportionable income of the taxpayer.

#### Transportation Other than by Aircraft or Pipeline

Prior law provided that the La. apportionment percent of any taxpayer whose net apportionable income is derived primarily from transportation other than by aircraft or pipeline, shall be calculated from the average of two ratios.

New law provides that for taxable periods beginning on or after Jan. 1, 2016, the La. apportionment percent of these taxpayers shall be computed by using only the ratio of gross apportionable income from La. sources to the total amount of gross apportionable income of the taxpayer.

### Service Enterprises

Prior law provided that the La. apportionment percent of any taxpayer whose net apportionable income is derived primarily from a service business in which the use of property is not a substantial income-producing factor shall be calculated from the average of two ratios.

New law provides that for taxable periods beginning on or after Jan. 1, 2016, the La. apportionment percent of these taxpayers shall be computed by using only the ratio of the gross apportionable income of the taxpayer from La. sources to the total gross apportionable income of the taxpayer.

Prior law included within gross apportionable income from La. sources, revenue from services *performed* in this state. New law provides that gross apportionable income from La. sources shall include revenue from services *sourced* to this state.

### Manufacturing and Merchandising

Prior law provided that the La. apportionment percent of a taxpayer whose net apportionable income is derived primarily from the transportation by pipeline or from any business not included in other provisions of existing law (manufacturing and merchandising) shall be calculated from the average of three ratios.

New law provides that for taxable periods beginning on or after Jan. 1, 2016, the La. apportionment percent of these taxpayers shall be computed by using the ratio of net sales made in the regular course of business and other gross apportionable income attributable to this state to the total net sales made in the regular course of business and other gross apportionable income of the taxpayer.

### Oil and Gas

New law requires that for taxable periods beginning on or after Jan. 1, 2016, the La. apportionment percent of any taxpayer whose net apportionable income is derived primarily from the exploration, production, refining, or

marketing of oil and gas shall be the arithmetical average of four specified ratios.

### Sourcing of Sales

New law requires sales other than sales of tangible personal property to be sourced to La. if the taxpayer's market for the sale is in this state, including:

- (1) In the case of a sale, rental, lease, or license of immovable property or rental, lease, or license of tangible personal property, if and to the extent the property is located in the state.
- (2) In the case of sale of a service, if and to the extent the service is delivered to a location in the state.
- (3) In the case of lease or license of intangible property, including a sale or exchange of property where receipts from the sale or exchange derive from payments contingent on the productivity, use, or disposition of the property, if and to the extent the intangible property is used in the state.
- (4) In the case of the sale of intangible property where the property sold is a contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area, if and to the extent that the intangible property is used in or is otherwise associated with the state.

New law provides that if the taxpayer's customer is an individual, the taxpayer shall source receipts from the sale of a service as follows:

- (1) If the customer is a natural person and the service is a direct personal service, the sale shall be sourced to the state where the customer received the direct personal service.
- (2) Services that are not direct personal services that are delivered to customers who are natural persons with a La. billing address shall be sourced to this state.
- (3) If the sourcing methodology fails to clearly reflect the taxpayer's market in this state, the

taxpayer may utilize, or the department may require, the use of other criteria and methodologies to approximate the taxpayer's market in this state. New law specifies requirements for a taxpayer to follow if an alternate approach is utilized and consequences if a taxpayer fails to fulfill those requirements.

New law provides that if the taxpayer's customer is an entity unrelated to the taxpayer, the taxpayer shall source receipts from the sale of a service as follows:

(1) If a service is provided to an unrelated entity and the service has a substantial connection to a specific geographic location, the income shall be sourced to La. if the geographic location is in this state. Service receipts that have a substantial connection to geographic locations in multiple states shall be reasonably sourced between those states.

(2) If the service provided to an unrelated entity does not have a substantial connection to a specific geographic location, sales from services delivered to unrelated entities shall be sourced to the commercial domicile of the taxpayer.

(3) If the sourcing methodology fails to reflect the taxpayer's market in this state, the taxpayer may utilize, or the department may require, the use of other criteria and methodologies to approximate the taxpayer's market in this state. New law specifies requirements for a taxpayer to follow if an alternate approach is utilized and consequences if a taxpayer fails to fulfill those requirements.

New law authorizes a taxpayer to petition for and requires DOR to participate in non-binding mediation when a taxpayer is subjected to different sourcing methodologies regarding intangibles or services by La. and one or more other state taxing authorities.

New law provides that if the taxpayer is not taxable in a state to which a sale is assigned or if the state of assignment cannot be determined or reasonably approximated, then the sale shall be excluded from the numerator and the denominator of the sales factor.

Applicable to all taxable periods beginning on and after Jan. 1, 2016.

Effective upon signature of governor (June 28, 2016).

(Amends R.S. 47:287.95(A))

### **Income Tax Credit for CPIC Assessments (2nd E.S. Act 9)**

Existing law provides an income tax credit against La. income tax for the surcharges, market equalization charges, or assessments paid by a taxpayer for the La. Citizens Property Insurance Corporation assessments due to Hurricanes Katrina and Rita.

Prior law provided that the amount of the tax credit was equal to 72% of the amount of the surcharges, market equalization charges, or assessments paid.

Prior law sunset the reduction in the amount of the credit on June 30, 2018, and further reinstated the full credit amount of 100% of the amount of the surcharges, market equalization charges, or assessments paid on July 1, 2018.

New law reduces the amount of the credit from 72% to 25% of the amount of the surcharges, market equalization charges, or assessments paid, and repeals the sunset of the reduction, thereby making the reduction permanent.

Effective upon signature of governor (June 28, 2016).

(Amends R.S. 47:6025(A)(1))

### **Overpayment Remedies (2nd E.S. Act 10)**

Existing law provides for the refunds of overpayments of specific taxes, which refunds bear interest at the rate of judicial interest.

New law provides that interest begins to accrue 90 days after the date the return was due, the return claiming overpayment was filed, or the tax was paid, whichever is later. New law governs the calculation of interest on all refunds

or credits by or on behalf of the secretary pursuant to any statute, except interest on refunds granted pursuant to the International Fuel Tax Agreement.

Existing law prohibits the accrual of interest as part of any refund or credit which relates to the pre-petition tax period of a petition for bankruptcy relief filed in accordance with existing federal law. New law specifies that the prohibition of the accrual of interest applies to any overpayment as it relates to the pre-petition tax period of a petition for bankruptcy relief in accordance with existing federal law.

New law authorizes the secretary to offset any overpayments of estimated corporate income tax or franchise tax against the estimated corporate income tax in determining the amount of interest the corporation owes.

Applicable to any refunds issued on or after Sept. 1, 2016, notwithstanding the tax period to which the claim relates.

Effective July 1, 2016.

(Amends R.S. 47:115 and 1624; repeals R.S. 47:287.657, 617, and 1624.1)

#### **Capital Gains Deduction (2nd E.S. Act 11)**

Existing law provides for a deduction from tax table income for income derived from net capital gains, which shall be limited to gains recognized and treated for federal tax purposes as arising from the sale or exchange of an equity interest in or substantially all of the assets of a nonpublicly traded corporation, partnership, limited liability company, or other business organization commercially domiciled in the state.

New law adds requirement that a business be domiciled in the state for a minimum of five years immediately prior to the sale or exchange to be eligible to claim the deduction. New law limits the amount of the deduction depending on the length of domicile, ranging from 50% for a business domiciled in the state for 5 years or more but less than 10 years, to 100% for a

business domiciled in the state for 30 years or more.

Applicable to sales and exchanges occurring on or after the effective date of new law.

Effective upon signature of governor (June 28, 2016).

(Amends R.S. 47:293(9)(a)(xvii))

#### **Sales Tax Exemptions and Exclusions (2nd E.S. Act 12)**

New law for purposes of exemptions and exclusions to the state sales and use tax imposed under R.S. 47:302, beginning July 1, 2016, adds 28 specified exemptions and exclusions to the list of exemptions and exclusions that remain in effect through June 30, 2018.

New law for purposes of exemptions and exclusions to the 1% temporary state sales and use taxes imposed under R.S. 47:321.1, adds 20 specified exclusions and exemptions to the list of state sales and use tax exemptions and exclusions to be given effect beginning July 1, 2016.

Effective upon signature of governor (June 28, 2016).

(Amends R.S. 47:302; adds R.S. 47:321.1(F)(66))

#### **Corporate Income Taxes – NOL Deductions (2nd E.S. Act 2)**

New law clarifies that the provisions of Act No. 123 of the 2015 R.S. and Act No. 6 of the 2016 1st E.S. that reduced the amount of the net operating loss deduction for corporate income taxes shall not apply to an amended return filed on or after July 1, 2015, relating to a claim for a net operating loss deduction properly claimed on an original return filed prior to July 1, 2015.

(Amends §5 of Act No. 123 of the 2015 R.S. and §2 of Act No. 6 of the 2016 1st E.S.)

## **Various Deadlines (Act 661)**

### Corporate Income Tax Returns

Prior law required corporate income tax returns made on the basis of the calendar year to be made and filed with the secretary on or before the 15<sup>th</sup> day of April following the close of the calendar year. Returns made on the basis of a fiscal year were required to be made and filed on or before the 15<sup>th</sup> day of the 4th month following the close of the fiscal year.

New law as it relates to returns made on the basis of the calendar year, changes the date of filing to on or before the 15th day of May following the close of the calendar year.

New law as it relates to returns made on the basis of a fiscal year, changes the filing date to on or before the 15th day of the 5th month following the close of the fiscal year.

### Partnership and Composite Returns

New law requires income tax returns for partnerships made on the basis of the calendar year to be made and filed with the secretary on or before the 15<sup>th</sup> day of April following the close of the calendar year. Returns made on the basis of a fiscal year shall be made and filed with the secretary on or before the 15th day of the 4th month following the close of the fiscal year.

New law requires that composite returns required to be made for an entity treated as a partnership for state income tax purposes made on the basis of the calendar year shall be made and filed with the secretary on or before the 15<sup>th</sup> day of May following the close of the calendar year. Composite returns required to be made for an entity treated as a partnership for state income tax purposes made on the basis of a fiscal year shall be made and filed with the secretary on or before the 15th day of the 5th month following the close of the fiscal year.

### Payment of Taxes

Prior law required the total amount of tax on a calendar year return to be paid on the 15th day of April following the close of the calendar year. Prior law required the total amount of tax on a fiscal year return to be paid on the 15th day of the 4th month following the close of the fiscal year.

New law changes the date to pay taxes filed on calendar year returns from April 15th to May 15th following the calendar year and changes the date to pay taxes filed on fiscal year returns from the 4th month to the 5th month following the close of the fiscal year.

Existing law requires, for purposes of corporate franchise taxes, the tax to be computed on the basis of the previous calendar or fiscal year closing and is due on the 1st day of each calendar or fiscal year and annually thereafter.

Prior law required corporate franchise taxes to be paid on or before the 15th day of the 3rd month following the month in which the tax is due.

New law changes the date for the payment of corporate franchise taxes from the 15th day of the 3rd month following the month the tax is due to the 15th day of the 4th month following the month the tax is due.

### Transferable Income or Corporation Franchise Tax Credits

New law adds requirement that if a taxpayer is claiming a transferable tax credit on a tax return, the effective date of transfer must be on or before the due date of the return, inclusive of extensions. New law provides that if a taxpayer is claiming a transferable tax credit on a tax return with an effective date of transfer after the due date of the return, including extensions, the credit may be utilized as a payment of tax liability.

Prior law prohibited a tax credit from being claimed on a tax return or utilized as a payment prior to the effective date of transfer between the transferor and transferee.



New law requires, that in order to claim a credit on a tax return, the transferor and transferee shall have executed a binding agreement to transfer the credit on or before the due date of the return. New law requires the agreement between the parties to be on a form approved by the secretary.

New law defines "effective date of transfer" as the date of transfer as reflected in the Tax Credit Registry.

New law authorizes a credit acquired through transfer to be applied to any allowable tax liability that is due for the year the credit was originally earned or to any year afterward until the applicable carryforward period is over.

New law provides that a tax credit with an effective date of transfer or an executed transfer agreement entered into after the due date of the return shall only be applied to allowable tax, penalty, and interest but the credit shall not be claimed as a credit on a tax return. New law provides that a credit acquired through transfer that is applied as a payment may be applied to any allowable tax liability, interest, and penalty that is due provided that the applicable carryforward period of the credit has not expired.

Applicable for income tax periods beginning on and after Jan. 1, 2016 and to corporation franchise tax periods beginning on and after Jan. 1, 2017.

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 47:103(A), 287.614(A)(1), 287.651(A)(1), and 609(A) and R.S. 47:1675(H)(1)(e), (f), and (g) as enacted by Act No. 23 of the 2016 1 E.S.)

#### **Interagency Fees (Act 11)**

Present law provides a system to allow state agencies to make a claim of offset to the Department of Revenue against any tax refund amounts due to an individual for debts owed to the agency by the individual. Present law

authorizes the Department of Revenue to collect a \$25 fee from an agency for each offset claim.

New law reduces the tax offset claims fee charged by the Dept. of Revenue for tax offset claims from the Dept. of Children and Family Services and the district public defenders' offices from \$25 to \$4 fee for each offset claim.

(Amends R.S. 47:299.5)

#### **Sales and Use Tax – Carencro (Act 13)**

New law authorizes the city of Carencro, subject to voter approval, to levy an additional sales and use tax not to exceed 1%.

Effective upon signature of governor (May 9, 2016).

(Adds R.S. 47:338.24.3)

#### **Hang Tags (Act 21)**

New law authorizes the commissioner to issue up to three additional hang tags on behalf of any person with a mobility impairment, instead of solely to mobility impaired dependents of divorced parents residing in separate households.

Effective August 1, 2016.

(Amends R.S. 47:463.4(B)(6))

#### **Sales and Use Taxes – Vehicles – Military (Act 25)**

New law provides additional time to pay sales and use taxes on motor vehicles owned by or registered to military service persons or spouses following separation from active duty from any branch of the armed forces of the U.S.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:303(B)(1)(b); Adds R.S. 47:303(B)(3)(b)(vi) and 502.3)

**License Plates (Acts 24, 26, 137, 156, 194, 237, 261, 296, and 660)**

Various laws create or amend the laws regarding various special prestige license plates.

(Adds or amends various laws.)

**Palmetto Island State Park Donations (Act 187)**

Prior law authorizes a taxpayer to donate any portion of his state income tax refund to a donee listed on the tax return form as a checkoff. Prior law required that a checkoff donation be removed from the tax return form if donations to a particular donee do not equal \$10,000 or more for two consecutive years.

New law exempts the Friends of Palmetto Island State Park, Inc. from the \$10,000 requirement until January 1, 2020.

Effective upon signature of the governor (May 26, 2016).

(Amends R.S. 47:120.37(B); adds R.S. 47:120.131(D))

**Sales & Use Taxes – Avoyelles PSB (Act 180)**

New law authorizes the Avoyelles Parish School Board to levy an additional sales and use tax not to exceed one percent.

Effective upon signature of the governor. (May 19, 2016)

(Adds R.S. 47:338.198)

**Occupational License Tax Exemption (Act 198)**

New law prohibits imposition, assessment or collection of the occupational license tax on any minor engaging in a business with sales of less than \$500 per year.

Effective August 1, 2016.

(Adds R.S. 47:360(H))

**Assessor Valuation (Act 182)**

Existing law establishes the criteria to be used by assessors in determining the fair market value of real and personal property, via the market approach, the cost approach, or the income approach.

Existing law requires that in using the income approach, an assessor shall use an appraisal technique in which the anticipated net income is "processed" to indicate the capital amount of the investment which produces the net income. New law specifies that for purposes of the income approach, the anticipated net income is "capitalized" rather than "processed".

New law adds additional criteria concerning the determination of value of residential housing unit property, the operation of which is subject to requirements of Section 42 of the Internal Revenue Code or any similar federal or state program.

New law prohibits the consideration of any value of federal or state tax credits or special financing terms as a component of the property value or as income to the property, including but not limited to any federal, state, or similar program intended to provide low-income housing with restricted occupancy and rental rates.

Effective January 1, 2017.

(Amends R.S. 47:2323(C)(3); adds R.S. 47:2323(E))

**Lafayette Parish Assessor Expenses (Act 377)**

New law authorizes an automobile expense allowance for the assessor in Lafayette Parish not to exceed 15% of the assessor's salary to be paid from existing funds of the assessor's office.

(Amends R.S. 47:1925.11)

**More Assessor Expenses (Act 429)**

New law adds authorization for the assessors in Assumption, Iberville, and Pointe Coupee

parishes to have an automobile expense allowance not to exceed 15% of the assessor's annual salary, provided that the expense allowance be funded by the assessor at no additional expense to the state or local governing authority.

Effective August 1, 2016.

(Amends R.S. 47:1925.11)

#### **Sales and Use Tax - House Rentals (Act 443)**

Existing law, beginning July 1, 2016, defines a dealer to include persons who are engaged in collecting the amount required to be paid by certain guests as a condition of occupancy at certain residential locations.

New law requires the secretary of the Dept. of Revenue to promulgate rules for registration of dealers when the transaction giving rise to the dealer's obligation to collect the state sales and use tax for occupancy at a residential location is facilitated through an online forum.

Effective July 1, 2016.

(Adds R.S. 47:306.4)

#### **Sales Tax - Claims for Refunds (Act 446)**

New law 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 the refund.

New law authorizes the secretary to exempt any taxpayer from this electronic filing requirement if the taxpayer can prove that the electronic filing of a schedule or invoice would create an undue hardship.

New law excepts the La. Tax Free Shopping Program or cases of bad debt from the requirement of electronic filing of refund claims.

Applicable for taxable years beginning on and after Jan. 1, 2016.

Effective upon signature of governor (June 9, 2016).

(Adds R.S. 47:1520.2)

#### **Various Tax Matters (Act 335)**

##### Board of Tax Appeals

Prior law authorized the Board of Tax Appeals (board) and the secretary of the Dept. of Revenue (secretary) to enter into an agreement for a fixed annual interagency transfer to the board as payment in lieu of filing fees owed by the secretary. New law makes the interagency transfer agreement *mandatory* rather than *discretionary*.

New law adds authorization for the designation of a member of the board to serve as hearing judge in instances where there is a vacancy on the board or the absence of a board member, but only for cases involving the state collector.

Existing law excludes from the jurisdiction of the board, matters requiring a declaration of unconstitutionality and establishes the procedure for the transfer of such a case to a district court, which shall consider de novo the issues of unconstitutionality.

New law requires that a motion to transfer any such case involving a state statute be served upon the attorney general and that a hearing on a request for a declaration of unconstitutionality in a case transferred pursuant to existing law be given priority and be heard by preference in the district court. New law further provides that after the issue concerning the declaration of unconstitutionality has been finally decided, the district court, on the motion of any party or on its own motion, may order the case remanded to the board for adjudication of the underlying tax dispute.

New law provides procedures relative to the making of any claim as to the constitutionality of any provision of existing law concerning the jurisdiction of the board, which procedures include the filing of a petition in the 19th JDC. New law further requires that any such petition

be served upon the board, the attorney general, and any opposing parties in the underlying board action, and that the pleading be given priority of hearing by the district court. A failure to follow these procedures shall bar any appeal on the claim.

New law adds that when a judgment of the board is modified or reversed, and one court of appeal judge dissents, the case shall be reargued before a panel of at least five judges prior to rendition of judgment, and a majority shall concur to render judgment, except as may be otherwise specifically provided for by local rule of a court of appeal.

New law provides that final decisions of the board may be enforced in any manner provided for final judgments of district courts and authorizes the issuance of writs of mandamus to enforce existing law.

New law expands the jurisdiction of the board to include appeals concerning occupational license taxes imposed by a municipality or parish, other local taxes, and state taxes and fees collected by agencies other than the Dept. of Revenue.

New law further provides that upon the joint motion of all parties, a district court may transfer to the board for adjudication, any matter pending before the court concerning disputes of state or local taxes or fees.

#### Occupational License Tax

Existing law relative to occupational license taxes imposed by a municipal or parish taxing authority establishes the procedure for a tax collector to pursue the collection of delinquent taxes through a rule to show cause before a court as to why a delinquent taxpayer should not be ordered to pay taxes due.

New law adds that the judgment shall include the amount of the license, penalty, fees, and costs against the defendant, and that the order shall require the business to cease the further pursuit of business until the judgment is satisfied, in the same manner as provided for in

existing law concerning the collection of license fees.

New law adds an optional remedy of collection by way of issuance of an assessment to a taxpayer in the same manner as is provided for in the Uniform Local Sales Tax Code for the collection of sales and use taxes. The assessment may be appealed to the local tax division in the same manner and subject to the same 30 day deadline as provided for in matters concerning local sales and use taxes.

The provisions of new law concerning the expansion of the board's jurisdiction to include additional state and local taxes, the definition of collectors, and challenges to constitutionality of jurisdiction of the board shall be effective on June 12, 2014, with certain exceptions.

#### Claims Against the State

Existing law authorizes the board to render claims against the state when a taxpayer has made an erroneous payment of taxes. Claims against the state are subject to appropriation by the legislature.

New law provides an exception to existing law for erroneous payments of corporate franchise tax when the claim is not appropriated within one year of the date on which the board approves the claim.

New law authorizes the secretary and the 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's approval of the claim.

(Amends R.S. 47:302(K)(7)(b) and (W)(1), (2), and (4) as enacted by Act No. 22 of the 2016 1st E.S., 351, 1403(C), 1418(4)(b) and (7)(d), 1431(A), 1432(B), and 1484(A) and §2 of Act No. 198 of the 2014 R.S.; adds R.S. 47:351.1, 1418(4)(c) and (7)(e), 1435(D), 1437(C), and 1484(C))

### **Tax Extension Requests (Act 461)**

Existing law authorizes the secretary of the Dept. of Revenue to grant an extension of time of up to six months for the filing of a La. individual income tax return. The secretary may accept an extension of time to file a federal income tax return for the same taxable period as an extension of time to file a La. income tax return or provide for the automatic extension of the La. income tax return.

New law provides that the submission of a physical copy of a taxpayer's IRS form used to request an extension of time to file their federal income tax return shall be sufficient to request an extension of time to file their La. income tax return.

Effective Aug. 1, 2016.

(Amends R.S. 47:103(D))

### **Sales Tax Districts (Act 490)**

New law provides for municipalities having a population in excess of 30,500 but not more than 30,700, based on the latest federal decennial census, to create sales tax districts consisting of a portion of their respective municipalities. New law provides for the districts to levy and collect an additional one percent sales and use tax if approved by a majority of the electors of the district voting thereon.

New law authorizes the governing authority of a municipality having a population in excess of 8,130 but not more than 8,145, based on the latest federal decennial census, to use the proceeds of the additional sales tax in specified ways.

Effective upon signature of the governor (June 13, 2016).

(Amends R.S. 47:338.1(D)(1); adds R.S. 47:338.1(E))

### **Medical Examiner (Act 475)**

Prior law defined the term "medical examiner" to mean a person licensed to practice medicine by the La. State Board of Medical Examiners, a person licensed to practice chiropractic by the La. State Board of Chiropractic Examiners, a person licensed by the La. State Board of Physical Therapy Examiners, or advanced practice registered nurses.

New law adds a person licensed to practice medicine in Louisiana or any other state or U.S. territory.

Effective August 1, 2016.

(Amends R.S. 47:463.4(M))

### **Mobile Construction Equipment (Act 468)**

New law exempts mobile construction equipment, including bulldozers, forklifts, road graders and excavators, from registration and the compulsory motor vehicle security requirements.

(Adds R.S. 47:502.3)

### **New Residents and Cars (Act 479)**

New law requires a new resident of Louisiana to apply for a certificate of registration for each motor vehicle he owns and operates on the public streets and roadways in Louisiana within 30 days of the date he establishes residency in Louisiana.

New law requires any motor vehicle owned and operated by a new resident of Louisiana on the public streets and roadways in Louisiana to bear a valid safety inspection certificate within 30 days of the date he establishes residency in Louisiana.

New law provides that a person is considered to have established residency in the state on the date he is issued a Louisiana driver's license.

Effective August 1, 2016.

(Adds R.S. 47:513.2)

### **Public Service Property Assessments (Act 551)**

Present law authorizes the La. Tax Commission to levy fees from July 1, 2014, through June 30, 2018, for the assessment of public service properties, insurance companies, and financial institutions, at a rate of 1/100 of 1% of the assessed value of such properties.

New law increases the rate to 4/100 of 1% of the assessed value of such properties from July 1, 2016, through June 30, 2018.

Effective July 1, 2016.

(Amends R.S. 47:1838(1))

### **Lafourche Parish Sales Taxes (Act 555)**

New law authorizes the Lafourche Parish School Board, subject to voter approval, to levy and collect an additional sales and use tax not to exceed 1%.

Effective July 1, 2016.

(Adds R.S. 47:338.138.1)

### **Public License Tag Agents (Act 556)**

Present law authorizes the commissioner to establish a system of public license tag agents to collect the registration license taxes and undertake other duties relating to motor vehicles.

New law requires that license plates be made available to each public license tag agent in increments of no less than 10. New law requires public license tag agents advance the costs of production for the license plates prior to the receipt of the license plates, and requires the Dept. of Public Safety and Corrections, office of motor vehicles (department) to fully reimburse the public license tag agent for the cost when the plate is issued pursuant to any registration transaction performed by the public license tag agent.

New law requires public license tag agents to submit images of certain documents.

New law requires all public license tag agents to submit electronic notification to the department of the removal and destruction of license plates when such submission is undertaken on behalf of a dealer.

New law provides that the contract between the department and a public license tag agent shall be for a term of two years and may be automatically renewed by the department.

New law provides that a contract entered into between the department and a public license tag agent in 2016 but prior to the effective date of new law shall be extended for one year without need for amendment of the contract upon payment by the public license tag agent of a \$100 fee.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:532.1)

### **Sales Tax Commission (Act 564)**

Present law establishes the Sales Tax Streamlining and Modernization Commission (commission), to perform a comprehensive study of La.'s state and local sales and use tax systems.

New law establishes a subcommittee for the development of recommendations to be presented to the commission by Jan. 15, 2017, concerning potential policy changes regarding coordinated multi-parish sales and use tax audits.

Present law terminates the commission on June 30, 2017. New law adds authority for the commission to continue its work through June 30, 2018, if approved prior to June 30, 2017, by a 2/3rds vote of the commission members.

(Amends R.S. 47:301.2)

### **Tax Institute (Act 568)**

New law establishes the Louisiana Tax Institute within the Dept. of Revenue as the official

advisory tax law revision and tax law reform agency of the state.

New law provides that the purpose of the Institute is to promote and encourage the clarification and simplification of the state's tax laws and its political subdivisions.

New law requires the Institute, in submitting reports to the legislature, to act solely in an advisory capacity.

Effective upon signature of governor (June 17, 2016).

(Adds R.S. 47:1525)

### **Remote Retailers (Act 569)**

New law establishes requirements for the provision of notices to purchasers, and annual statements to the Dept. of Revenue, concerning sales by remote retailers of property delivered into La. or services occurring in La.

New law excludes remote retailers who make retail sales in La. whose cumulative annual gross receipts from those sales is less than \$50,000 per calendar year.

New law requires, at the time of sale, that the remote retailer notify the La. purchaser that their purchase is subject to La. use tax unless it is specifically exempt, and that there is no exemption specifically for purchases made from a remote seller.

New law requires a retailer to send, by Jan. 31st of each year, an annual notice to all La. purchasers who made purchases from them in the preceding calendar year, which notice will report the total amount paid for purchases in that preceding calendar year, and other information required by the secretary through administrative rule.

New law requires a remote retailer who made retail sales of tangible personal property or taxable services to La. purchasers in the immediately preceding calendar year to file with the secretary an annual statement with regard to

each purchaser by March first of each year. The statement shall provide the total amount paid by the purchaser to that retailer in the immediately preceding calendar year, but shall not contain any detail as to specific property or services purchased. The secretary may require the electronic filing of annual statements by a remote retailer who had sales in La. in excess of \$100,000 in the preceding year.

New law adds jurisdiction for the Board of Tax Appeals.

Effective July 1, 2017.

(Amends R.S. 47:302(U) and 309.1)

### **Tax Exemption Schedule (Act 592)**

Existing law requires the Dept. of Revenue to annually prepare a tax exemption budget detailing the prior tax years tax exemptions, including whether each exemption is meeting its purpose, whether the purpose is being achieved in a fiscally effective manner, and whether there are any inadvertent consequences caused by the tax exemption.

New law adds a requirement that tax exemptions be organized in a prescribed schedule.

New law prohibits tax exemptions from being organized into more than one of the enumerated categories, unless there is a specific notation for doing so, and authorizes the secretary to add additional categories if deemed necessary.

Effective July 1, 2016.

(Amends R.S. 47:1517(B))

### **Cigarettes (Act 640)**

Old law required the stamping of cigarettes with tobacco tax stamps immediately upon receipt of the cigarettes by a tobacco dealer. New law instead requires that tobacco dealers stamp cigarettes prior to selling, offering for sale, removing, or otherwise distributing the cigarettes.

Old law provided a prima facie presumption that cigarettes found in the place of business of any tobacco dealer or other person, except bonded interstate tobacco dealers, without the stamps affixed are in violation of present law. New law removes the exception for bonded interstate tobacco dealers and provides an exception for a dealer holding a valid stamping agent designation.

New law requires a dealer holding an exporter license to affix the stamp required by the destination state to the package within 72 hours after receipt, unless the other state does not require the stamp, then the dealer may sell cigarettes into the other state if the excise, use, or similar tax is paid.

New law requires the dealer to ensure that any cigarettes and roll-your-own tobacco in its stock that are not listed on the attorney general's state directory are kept separate and apart from the approved stock.

(Amends R.S. 47:843, 847, and 849)

### **Sales Tax (1st E.S. Act 25)**

Old law imposed a combined 4% rate for state sales and use tax.

New law limits the application of numerous exclusions and exemptions to the 3% state sales and use tax, thus apparently subjecting numerous items to a 1% state sales and use tax.

Old law authorized a dealer to deduct \$25 per cash register as compensation for the cost of reprogramming cash registers as a result of a change in the state sales and use tax rate or base. New law repeals old law.

New law sunsets on April 1, 2019.

Effective April 1, 2016.

(Amends R.S. 4:168 and 227, R.S. 12:425, R.S. 22:2065, R.S. 33:4169, R.S. 40:582.7, R.S. 47:301, 302, numerous provisions between 305 and 305.71, 331, and 6001, and R.S.

51:1307(C); repeals §4 of Act No. 386 of 1990 R.S.)

### **Corporate Franchise Tax (1st E.S. Act 12)**

New law provides that, for purposes of the corporate franchise tax, limited liability companies are treated and taxed in the same manner that they are treated and taxed for federal income tax purposes.

New law changes present law, relative to taxable capital from owning or using part or all of an entity's capital, plant, or other property in La. in a corporate capacity, to owning or using part or all of an entity's capital, plant, or other property in La. whether owned directly or indirectly by or through a partnership, joint venture, or any other business organization.

New law adds Subchapter C entities taxed as corporations pursuant to federal law to the definition of "domestic corporation" and requires that these entities be treated and taxed in the same manner that they are taxed for federal income tax purposes.

New law prohibits application of the franchise tax liability to any limited liability company qualified and eligible to make an election to be taxed as a Subchapter S corporation.

New law authorizes a holding company deduction to be applied towards a company's taxable capital whereby a corporation that has one or more subsidiaries may deduct from its taxable capital any amounts of investments in or advances to one or more of its subsidiaries.

New law defines "subsidiaries" as a corporation in which at least 80% of the voting and nonvoting power of all classes of their stock, membership, partnership, or other ownership interests are owned by a corporation subject to the franchise tax.

New law increases the rate of the initial franchise tax from \$10 to \$110.

New law requires that any entity in existence and conducting business in La. during the prior



calendar year shall pay an initial tax based on its corporate books on the first day of the calendar or fiscal year in which the tax levied under new law becomes due and payable.

New law applies to all taxable periods beginning on or after Jan. 1, 2017.

(Amends R.S. 12:1368 and R.S. 47:601 and 602)

#### **Debt Collection By State (1st E.S. Act 11)**

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 the delinquent debt to the office of debt recovery.

(Amends R.S. 32:8 and R.S. 47:1676)

#### **Dealers and Old License Plates (Act 673)**

Existing law requires any dealer of motor vehicles who receives a previously owned vehicle with the intention of reselling such vehicle to remove the license plate from that vehicle.

New law requires the dealer to remove the license plate and submit an electronic notification, instead of an affidavit, to the Dept. of Public Safety and Corrections, which states he has received the vehicle, removed the license or number plate from such vehicle, and intends to resell the vehicle.

New law requires the dealer to attach the title and registration to the electronic notification and electronically notify the secretary monthly of all plates removed and destroyed.

New law extends the notice requirement for canceled license plates in existing law to leased vehicles.

Effective August 1, 2016.

(Amends R.S. 47:505(B)(2))

#### **Employer Withholding (Act 662)**

Existing law requires every employer to file an annual return with the secretary that reconciles all previously filed quarterly returns for the calendar year together with copies of the receipts required to be furnished for that same period.

Prior law required employers to file the annual return with the secretary on or before the 1st business day following Feb. 27th of each year for the preceding calendar year. New law changes the date for the filing of the annual return to on or before Jan. 31st of each year.

Existing law provides that the motion picture investor tax credit awards a tax credit for investments made and used for production expenditures in this state for state-certified productions. Therefore, any individual receiving any payments for the performance of services used directly in a production activity, which payments are claimed as a production expenditure for purposes of certification of tax credits, is deemed to be receiving La. taxable income, whether directly or indirectly through an agent or agency, loan-out company, a personal service company, an employee leasing company, or other entity. New law adds that these payments are subject to the withholding requirements of state and federal law and regulations.

Existing law provides that any motion picture production company, motion picture payroll services company, or other entity making or causing to be made payments to an individual, or to an agent or agency, loan-out company, personal service company, employee leasing company, or other entity is considered to be paying compensation taxable by this state. Existing law requires the company or other entity to withhold taxes from those payments, and to electronically report and remit the withholdings to the Dept. of Revenue quarterly. New law adds an exception to the quarterly reporting and remittance requirement for amounts that are not otherwise subject to the withholding requirements imposed pursuant to state and federal law and regulations.

Applicable to expenditures occurring after Jan. 1, 2016 for productions which receive initial certification on or after Jan. 1, 2016.

Effective upon signature of governor (June 17, 2016).

(Amends R.S. 47:114(E) and 164(D)(2) and §2 of Act No. 425 of the 2015 R.S.)

## **TITLE 48: ROADS, BRIDGES AND FERRIES**

### **Louisiana Transportation Authority (Act 169)**

New law authorizes the Louisiana Transportation Authority to undertake a state-designated project for a transportation improvement designated as a Priority "A" or "B" Megaproject in the 2015 Louisiana Statewide Transportation Plan.

Effective upon signature of the governor (May 19, 2016).

(Amends R.S. 48:2078(A))

### **DOTD Plan Changes and Partial Acceptances (Act 207)**

Prior law, relative to contracts of the Department of Transportation and Development, provided for plan changes that may be negotiated. New law adds that plan changes within the scope of the contract are not required to be recorded in the office of the recorder of mortgages in the parish where the work is performed.

Prior law provided for final acceptance or partial acceptance of work performed under contract and for recordation of a final acceptance or partial acceptance of any specified area of the work upon completion. New law defines "partial acceptance" to mean the determination by the department made after final inspection of a portion of the project that the contractor has satisfactorily completed a portion of the project and that such portion may be used advantageously by traffic or for other use.

Effective upon signature of the governor (May 26, 2016).

(Amends R.S. 48:252(B)(7)(b) and 256.4)

### **Zachary Taylor Parking District (Act 290)**

Existing law creates the Zachary Taylor Parkway District and commission composed of various parishes.

Prior law included that portion of Tangipahoa Parish that lies north of LA Highway 40 in district. New law includes the entirety of Tangipahoa Parish.

Effective August 1, 2016.

(Amends R.S. 48:1801(3) and 1804(A))

### **Central La. Beltway Commission (Act 287)**

New law changes the composition of the Central La. Regional Infrastructure Beltway Commission in Rapides.

Effective August 1, 2016.

(Amends R.S. 48:2154)

### **DOTD Land Sales (Act 464)**

New law adds that when the Dept. of Transportation and Development (DOTD) amicably acquired property that was identified as an uneconomic remainder at the time of acquisition, there is no obligation to offer such property at private sale to the vendor or the vendor's successors in title. New law only applies to property acquired subsequent to July 1, 2016.

Effective July 1, 2016.

(Amends R.S. 48:221(A)(2))

### **Road Transfers (Act 458)**

Existing law authorizes the secretary of the Dept. of Transportation and Development, upon request by a parish or municipality and with the approval by a majority of the legislative

delegation from such parish or municipality, to transfer a road from the state highway system to the parish or municipal road system.

New law provides that as a condition of such transfer, the Dept. of Transportation and Development may provide a thing of value, including but not limited to credits towards future construction projects, payment of funds, or satisfaction of debt owed to the department.

New law provides that such thing of value shall be equal to the amount of the present value of the 40 year projected future maintenance cost of the road to be transferred and may be funded by the department as a capital project.

New law provides that any such condition of transfer shall be reduced to writing by the parties.

Effective August 1, 2016.

(Amends R.S. 48:224.1(A); Adds R.S. 48:224.1(D))

#### **Assistance to Railroads (Act 658)**

Existing law authorizes the Dept. of Transportation and Development to provide financial assistance, within the limits of the funds appropriated for this purpose, for the preservation of operations and maintenance of any railroad within the state as provided for in relevant federal law. New law retains existing law.

Prior law provided that no state funds were to be used for financial assistance to any private or public person or corporation. New law allows use of state funds provided the department submits a report to the House and Senate committees on transportation, highways and public works prior to application for federal funds.

Effective June 17, 2016.

(Amends R.S. 48:388(F))

## **TITLE 49: STATE ADMINISTRATION**

### **Department of Insurance (Act 2)**

New law recreates the Dept. of Insurance for six more years, changing the termination date from July 1, 2017, to July 1, 2023.

Effective June 30, 2016.

(Adds R.S. 49:191(10); repeals R.S. 49:191(6)(g))

### **Department of Culture, Recreation and Tourism (Act 15)**

New law provides for the re-creation of the Department of Culture, Recreation and Tourism, effective June 30, 2016. July 1, 2021, is the new termination date.

Effective June 30, 2016.

(Adds R.S. 49:191(9)(b); repeals R.S. 49:191(6)(b))

### **Department of Revenue (Act 65)**

New law provides for the re-creation of the Dept. of Revenue, effective June 30, 2016. New law makes July 1, 2021, the new termination date.

Effective June 30, 2016.

(Adds R.S. 49:191(9)(b); repeals R.S. 49:191(6)(a))

### **Department of Wildlife & Fisheries (Act 240)**

New law creates the Dept. of Wildlife and Fisheries until June 30, 2020.

Effective June 30, 2016.

(Adds R.S. 49:191(9)(b); repeals R.S. 49:191(6)(e))

### **Department of Natural Resources (Act 286)**

New law re-creates the Dept. of Natural Resources until June 30, 2020.

Effective June 30, 2016.

(Adds R.S. 49:191(9)(b); repeals R.S. 49:191(6)(c))

### **Coastal Protection and Restoration (Act 362)**

New law authorizes the Coastal Protection and Restoration Authority Board to establish a natural resource damages restoration bank program as an alternate method to offset damages sustained as a result of oil spills in coastal areas of the state. New law defines such bank as a site where land or resources are restored, created, enhanced, or preserved to restore natural resource injuries from oil spills in coastal areas.

New law provides that neither the state nor any state agency can act as a natural resource damage restoration bank sponsor. New law defines a "bank sponsor" as a person responsible for developing and operating a natural resource damage restoration bank.

New law requires rules to set forth procedures for certification of restoration banks in the state, including criteria for adoption of a restoration banking instrument; to ensure priority certification to banks that enhance the resilience of coastal resources to inundation and coastal erosion; to ensure certification is given only to banks with secured adequate financial assurance and permanent protection for any restored lands or resources; and to establish a system for the transfer of restoration credits to a responsible party or natural resource trustee.

New law further requires that the process and procedures adopted be in compliance with the federal Oil Pollution Act of 1990 and the Louisiana Oil Spill Prevention and Response Act.

New law also authorizes the board to establish a compensation schedule for the unauthorized discharge of oil in the coastal areas of the state.

New law requires the Coastal Protection and Restoration Authority Board to report annually by January 15th to the Natural Resources

committees the banks that have been certified, the principals to those banks, the restoration credits traded over the past year, and the parties who have traded those credits.

Effective August 1, 2016.

(Adds R.S. 49:214.5.2(H) and (I))

### **Coastal Levee Consortium (Act 393)**

New law changes the membership of the Coastal Louisiana Levee Consortium.

Effective August 1, 2016.

(Adds R.S. 49:214.6.8(B)(1)(s))

### **Lame Duck Pay Increases (Act 588)**

New law provides that no unclassified employee in the executive branch of state government will receive any pay increases for a period starting on the regularly scheduled gubernatorial election day and ending on inauguration day, without the approval of the Joint Legislative Committee on the Budget.

New law provides that the state Civil Service Commission will adopt the same or substantially similar rule for classified employees barring some exceptions.

New law shall not apply to any postsecondary or higher education system or institution.

Effective upon signature of the governor (June 17, 2016).

(Adds R.S. 49:201.2)

## **TITLE 51: TRADE AND COMMERCE**

### **Corporate Income Tax Deductions & Exclusions (1st E.S. Act 28)**

Existing law reduces the amount of nine specified corporate income tax deductions and exclusions by 28%.

Prior law sunset the reductions in the amount of the credit on June 30, 2018. New law changes the sunset date of the corporate income tax deductions and exclusions to June 30, 2018.

Existing law requires that applications for La. Quality Jobs incentives be filed no later than 24 months after the filing of the advance notification.

Prior law provided an exception for projects for which an advance notification form was filed on or after July 1, 2011, and before July 1, 2012, and authorized applications for those projects to be filed any time prior to August 15, 2015.

New law authorizes an exception for projects for which an advance notification is filed on or after Jan. 1, 2014, and before Jan. 31, 2014, and requires applications for those projects to be filed prior to Jan. 31, 2016.

Effective April 1, 2016.

(Amends R.S. 51:2455(D)(3) and §6 of Act No. 126 of the 2015 R.S.; Adds §7 of Act No. 126 of the 2015 R.S.)

### **Major Events Incentive Program (1st E.S. Act 2)**

Prior law established the Major Events Incentive Program and authorizes the secretary of the Dept. of Economic Development to subsidize qualified major specified events, subject to legislative appropriation and the approval of the Joint Legislative Committee on the Budget.

New law adds "college tournaments and championships" to the definition of "qualified event" or "qualified major event", and clarifies that the NCAA includes any affiliated conference.

(Amends R.S. 51:2365.1(A)(5) and (7)(a))

### **Enterprise Zone Program (1st E.S. Act 18)**

New law limits the amount of the sales and use tax rebate or the investment income tax credit, for enterprise zone program projects for which

an advance notification is filed on or after April 1, 2016, to \$100,000 per net new employee created. New law requires that the net new job be counted only once for purposes of the cap on the amount of the benefit.

New law increases the amount of the income tax credit from \$2,500 to \$3,500 per net new job created for employees who have been receiving Supplemental Nutrition Assistance Program (SNAP), Women, Infants, and Children (WIC), Medicaid, unemployment benefits, or benefits from a similar public assistance program as determined by the Dept. of Economic Development, for projects for which the advance notification form is filed on or after April 1, 2016. New law decreases the amount of the income tax credit from \$2,500 to \$1,000 for net new jobs created for employees not receiving these benefits.

New law eliminates accommodation businesses with a North American Industry Classification System (NAICS) Code of 5613 and 72 from program eligibility if no advance notification form for the businesses' project has been filed before April 1, 2016.

New law excepts certain businesses participating in the La. Quality Jobs Program and the Competitive Projects Payroll Incentive Program.

(Amends R.S. 51:1787)

### **Motor Vehicle Leases (Act 61)**

New law authorizes a motor vehicle lessor, in a rental agreement, to list mandatory charges separately, including but not limited to vehicle license recovery fees, airport access fees, airport concession fees, and all applicable taxes.

New law provides that if a motor vehicle lessor includes a vehicle license recovery fee as a separate charge in a rental agreement, the amount of the fee shall represent the motor vehicle lessor's good-faith estimate of the lessor's average per vehicle portion of the lessor's total, annual titling and registration costs pursuant to existing law. New law requires adjustment of the fee each year based on the

amount collected as compared to the amount necessary for titling and registration.

Effective August 1, 2016.

(Adds R.S. 51:1949.1)

### **Securities – Regulation A Coordination (Act 141)**

Federal law (Title IV of the JOBS Act) provides 2 tier offerings of Regulation A securities: Tier 1 and Tier 2. Federal law preempts state registrations of Tier 2 Regulation A securities.

Existing law in the state of La. provides for all Regulation A Securities. New law modifies existing law in the state of La. by creating a distinction between Regulation A securities (Tier 1 and Tier 2) to parallel the distinction made in federal law.

New law modifies existing law to provide for the registration of Tier 1 Regulation A securities. New law reinstitutes a notice filing requirement of Tier 2 Regulation A securities.

New law provides provisions necessary for an issuer of securities to determine the level of interest in the state of La. for the issuance of Tier 1 Regulation A securities.

Effective upon signature of governor (May 19, 2016).

(Amends R.S. 51:705(H)(1), 709(5) and (10))

### **Home Service Contract Providers (Act 243)**

Existing law requires home service contract providers to register with the secretary of state.

Prior law required a fee not to exceed \$600 to accompany an application of registration. New law fixes the registration fee at \$600.

Prior law provided that registrations are effective for 2 years unless the registration is denied, renewed, suspended, or revoked. New law removes the renewed and suspended registration statuses.

Existing law requires home service contract providers to obtain and file with the secretary of state a \$50,000 surety bond issued by a company licensed to do business in the state of La. New law requires the term of the surety bond to coincide with the 2-year period of effective registration.

Effective upon signature of governor (May 26, 2016).

(Amends R.S. 51:3143(B), (C), and (E))

### **Home Service Contract Providers (Act 327)**

New law removes from prior law the requirements that a home service contract provider submit to the secretary of state an annual financial statement proving solvency, and an annual report documenting certain information for the previous calendar year.

Effective August 1, 2016.

(Repeals R.S. 51:3143(A)(4) and (5))

### **Protection of Vulnerable Adults (Act 580)**

New law provides for protection for vulnerable adults from financial exploitation. New law provides procedures for taking of protective measures, including delay of disbursement of funds, if financial exploitation of an eligible adult is reasonably believed.

New law provides immunity for certain governmental disclosures made in accordance with new law, and immunity for certain disclosures for third parties.

New law provides for delaying disbursements in certain instances and for immunity with regard to those delays. New law provides for receipt of notice with regard to the keeping of certain records.

Effective January 1, 2017.

(Adds R.S. 51:725-725.7)

### **Extended Service Agreements (Act 657)**

New law provides relative to an unsolicited offer, made by mail or common carrier, to sell to another an extended service agreement relative to a motor vehicle.

New law provides that if the unsolicited offer is in writing, it shall state at the top of each page "THIS IS AN ADVERTISEMENT TO PURCHASE AN EXTENDED SERVICE AGREEMENT ON A MOTOR VEHICLE. IT IS NOT AN OFFICIAL DOCUMENT." The statement shall be in conspicuous and legible type that is not smaller than fourteen-point font and is in contrast by typography, layout, or color with any other printing on the writing.

New law provides that if the unsolicited offer is oral, it shall begin and end with the statement: "THIS IS AN ADVERTISEMENT TO PURCHASE AN EXTENDED SERVICE AGREEMENT ON A MOTOR VEHICLE. IT IS NOT AN OFFICIAL NOTIFICATION OR DEMAND FOR ACTION."

New law provides that a violation of new law shall constitute a deceptive and unfair trade practice and subject the violator to any and all actions and penalties authorized for such violations. New law provides that each offer in violation of the new law shall be considered a separate offense.

New law defines "extended service agreement" to include any vehicle mechanical breakdown insurance policy, vehicle service contract sold by an independent payment provider or their agent, or vehicle component coverage contract. "Unsolicited offer" shall not include an offer made subsequent to a prior personal contact that included a meaningful exchange between the offeror and offeree.

New law provides exception for any manufacturer, distributor, or dealer of motor vehicles, any vehicle mechanical breakdown insurer, any person acting pursuant to an agreement of and on behalf of such manufacturer, distributor, dealer, or licensed vehicle mechanical breakdown insurer, any

entity licensed pursuant to a particular law (R.S. 6:969.37), or any Federal Deposit Insurance Corporation (FDIC) or National Credit Union Administration (NCUA) insured depository financial institution operating with a main office or one or more branches in this state, or their subsidiaries or affiliates.

Effective August 1, 2016.

(Adds R.S. 51:1422)

### **Quality Jobs Program; Sales Tax (Act 663)**

Prior law entitled employers participating in the Quality Jobs Program to receive the same benefits authorized through the Enterprise Zone Program. New law replaces the additional benefits with the following rebates:

(1) A sales and use tax rebate for purchases of materials used in the construction, addition, or improvement of a building used to house the business or its equipment.

(2) A project facility expense rebate equal to 1.5% of the qualified capital expenditures for the facility.

New law defines "qualified capital expenditures" as capital expenditures for federal income tax purposes related to the project plus exclusions from certain capitalizations as provided for in the Internal Revenue Code, minus certain capitalized costs for land, interest, and machinery.

New law requires the appropriate local governing authority to approve a rebate of local sales and use taxes as provided for in new law. New law requires that the request for a rebate of local sales and use tax be accompanied by the approval.

New law authorizes the board to approve or deny a request for a state sales and use tax rebate regardless of whether a local governing body submits an endorsement resolution, written reasons for denial, or a written request for delay of consideration for a rebate of the local sales and use tax within the time specified in new law.

New law requires the application for final payment of either the sales and use tax rebate or the project facility expense rebate to be filed no later than six months after a project completion report has been signed and received by the Dept. of Revenue (DOR), the political subdivision, and the business, no later than 30 days after the end of the calendar year for certain businesses involved in the compression-molding process when the application is for final payment of the sales and use tax rebate.

New law requires a properly completed rebate request to be submitted for requests for the rebate of either the sales and use tax or the project facility expense, and requires the requests to be submitted electronically unless the secretary has authorized an alternate method.

New law requires payment of 80% of the sales and use tax rebate within 10 days of receipt of the request. New law requires the DOR to audit the rebate requests for sales and use taxes and authorizes the DOR to withhold from the remaining 20% of the rebate any amounts determined through the audit to be ineligible for rebate.

New law authorizes payments of interest to a taxpayer who has requested a sales and use tax rebate when the DOR fails to timely pay the rebate.

New law requires the DOR, upon request of the business, to grant a 30 day extension of time within which a business has to file an application. New law authorizes the DOR to grant an additional 60 day extension for reasonable cause.

New law requires a local taxing authority to review a rebate request for local sales and use taxes and issue or disallow a rebate within 90 days of receipt by the local taxing authority of a properly completed rebate request. New law authorizes a taxpayer to request reconsideration of any disallowed items, but requires the taxpayer to do so within 60 days of receipt of the notice that items have been disallowed.

New law authorizes payments of interest to a taxpayer who has requested a local sales and use tax rebate pursuant to the provisions of new law when the local governing authority fails to timely pay the rebate.

New law provides for collection of rebates issued when there has been a violation of the terms of the contract providing for the rebate.

New law extends the termination date of the program from Jan. 1, 2018 to July 1, 2018.

Effective July 1, 2016.

(Amends R.S. 51:2456(B), 2457, and 2461)

### **Competitive Projects Payroll Incentive Program (Act 664)**

Prior law entitled a qualified business participating in the program to receive the same benefits authorized through the Enterprise Zone Program.

New law replaces the additional benefits with a sales and use tax rebate for purchases of materials used in the construction, addition, or improvement of a building used to house the business or its equipment.

New law modifies the definition of "qualified capital expenditures" relative to capitalized costs of machinery and equipment to specify that the qualifying machinery and equipment are manufacturing machinery and equipment.

New law extends the termination date of the program from July 1, 2017 to July 1, 2018.

Effective July 1, 2016.

(Amends R.S. 51:3121(C)(3)(a)(ii) and (4))

## **TITLE 56: WILDLIFE AND FISHERIES**

### **Blaze Pink for Hunters (Act 7)**

Old law required any person hunting any wildlife during the open gun season to display not less than 400 sq. inches of "hunter orange".



New law adds "blaze pink" as an alternative to hunter orange, and defines "blaze pink" as a daylight fluorescent pink color.

(Amends R.S. 56:143(A); adds R.S. 56:8(14.1))

### **Oyster Harvesting (Act 133)**

New law changes the name of certain oyster harvest gear from "dredge" to "scraper," alters the allowable dimensions, weight, and number of scrapers used on the public seed grounds and natural reefs, prohibits attachments intended to create downward pressure on scrapers, and restricts nature of mesh on oyster scraper bags.

(Amends R.S. 56:56, 305, 435, 435.1, 435.1.1, and 436)

### **Public Oyster Development Funds (Act 134)**

Existing law provides for the Public Oyster Seed Ground Development Account and limits use of the monies in the account to enhancement of the public seed grounds through siting, designing, permitting, constructing, monitoring, and cultch deposition.

New law adds research into oyster propagation and habitat, oyster hatchery operations, and the administrative functions of the oyster lease and survey section to the list of uses of the monies in the account.

Effective August 1, 2016.

(Amends R.S. 56:434.1(C))

### **Purchase of Reptiles and Amphibians (Act 114)**

New law requires any wholesale/retail seafood dealer who purchases reptiles or amphibians to complete a monthly commercial receipt form and return all commercial receipt forms to the Department of Wildlife and Fisheries in the same manner as for seafood provided in present law.

(Amends R.S. 56:637(B) and (E))

### **Game and Fish Preserves (Act 173)**

Prior law authorized any parish by formal resolution of its governing authority to establish, maintain, and operate game and fish preserves in the parish. New law clarifies that a preserve may be upon lands or water bodies wholly located within the parish.

New law 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.

New law provides for establishment, by two or more parish governing authorities, of a game and fish preserve commission. New law 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.

Effective August 1, 2016.

(Amends R.S. 56:721 and 722(A))

### **Catch and Cook Program (Act 241)**

Present law provides for the Catch and Cook Program within the Dept. of Wildlife and Fisheries that authorizes retail food establishments to receive and prepare any freshwater or saltwater recreational fish taken by a licensed recreational fisherman for consumption by that recreational fisherman or any person in his party.

Proposed law adds alligator taken by a licensed alligator hunter into the program.

(Amends R.S. 56:317(A) and (B))

### **White Lake Property Advisory Board (Act 203)**

New law discontinues the White Lake Property Advisory Board.

Effective August 1, 2016.

(Amends R.S. 56:799.2, 799.3, 799.5, and 799.6; repeals R.S. 36:610(K) and R.S. 56:799.4)

### **Oyster Harvesting Education (Act 276)**

New law requires that beginning in license year 2017 and thereafter, any person applying for an oyster harvester license shall have completed the oyster harvester education program in the Dept. of Wildlife and Fisheries within the previous three years.

New law requires the Dept. of Wildlife and Fisheries to develop an oyster harvester education program for the purpose of developing professionalism in the oyster harvest industry. New law requires the program to include training in the La. Shellfish Sanitation Program and best practices for conservation of the species.

(Amends R.S. 56:303.6(D))

### **Oyster Vessel Permits (Act 291)**

Existing law requires possession of an oyster seed ground vessel permit for any vessel carrying or harvesting oysters from a public natural reef or oyster seed ground.

New law increases the fees for the permits for a single scraper vessel to \$250 for a resident and \$1,000 for a nonresident, and for a double scraper vessel, sets fees of \$500 for a resident and \$2,000 for a nonresident.

Notwithstanding the date limitation contained in prior law, new law authorizes a person who owns an oyster vessel and who has satisfactorily completed the requirements of a professionalism program to submit an application for a seed ground vessel permit.

New law requires the Wildlife and Fisheries Commission to develop, establish, and monitor a professionalism program to train vessel owners in appropriate methods and practices of oyster harvest from the public seed grounds.

New law eliminates the Nov. 15, 2016, repeal of the requirement for the oyster seed ground vessel permit.

Effective August 1, 2016.

(Amends R.S. 56:433.1)

### **Restaurants and Retail Grocers (Act 299)**

Prior law required a retail seafood dealer's license for anyone buying, acquiring, or handling any species of fish, whether fresh, frozen, processed, or unprocessed, that sells to a consumer for personal or household use or any person who ships for personal or household use.

Prior law exempted from the retail seafood dealer's license requirement restaurants and retail grocers who purchase fish from a licensed wholesale/retail dealer and only sell such fish fully prepared by cooking for immediate consumption.

New law only requires the fish be fully prepared to qualify for the exemption and removes the cooking requirement.

Effective August 1, 2016.

(Amends R.S. 56:306.1(B)(6))

### **Oyster Cultivation (Act 570)**

New law 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.

New law 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.

New law 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. New law terminates any lease subject to the joint agreement at the time a court has issued a final determination of ownership of the water bottom.

New law 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. New law requires a certified copy of the lease to be carried on each vessel harvesting oysters from the private lease.

New law 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.

Effective July 1, 2016.

(Adds R.S. 56:425.1)

### **Oyster Leases (Act 595)**

New law, for any oyster lease initially applied for after July 1, 2016, or any judicial partition or renewal of such lease, further subordinates the lessee's right of use to the following:

(1) Any person engaged in any activity authorized by a coastal use permit for which the coastal use permit application was issued prior to the date the oyster lease application was issued. New law applies the subordination of right of use to an area 75 feet from the center of a pipeline or 250 feet from the outside of a well, platform, shell pad, or facility.

(2) Any person operating, maintaining, replacing, repairing, rehabilitating, or removing any pipeline, well, platform, shell pad, or facility placed prior to Sept. 20, 1980, and placed prior to the issuance date for the oyster lease. New

law applies the subordination of right of use to an area 75 feet from the center of a pipeline or 250 feet from the outside of a well, platform, shell pad, or facility.

(3) Any person crossing an oyster lease to access an activity, pipeline, well, platform, shell pad, or facility through a single access channel identified in the coastal use permit for such activity or a single access channel identified by the permit holder. New law applies this subordination of right of use to an area within 50 feet of the centerline of the access channel and a spoil area previously identified and limited to 80 feet to one side of the access channel.

New law provides immunity for the Dept. of Wildlife and Fisheries for actions arising out of its consent or agreement to a specific access channel and requires the department to consult with the lessee prior to approving an access channel. New law further specifies that these provisions do not apply to any lease initially applied for prior to July 1, 2016, or any lease issued under certain provisions of Act No. 595 of the 2016 R.S.

New law adds that no lessee has a right to maintain any action against another person arising from an activity delineated in the new law if that person has not violated any coastal use permit, determination, or other coastal use authorization pursuant to law or any La. or federal law or regulation applicable to the activity.

New law requires the Coastal Protection and Restoration Authority (CPRA) to determine areas of the coast where buffer zones between oyster leases and the shoreline may be necessary to protect sensitive and eroding coastal lands. New law requires the CPRA to review each application for an oyster lease or renewal or expansion of an oyster lease to determine if the water bottom applied for is located in an area where a buffer zone may be necessary and shall delineate the extent of the buffer zone necessary for each application.

New law requires that, prior to issuance of a lease, the Dept. of Wildlife and Fisheries must

post notice of the application on their website for 90 consecutive days. New law authorizes any person claiming ownership of the water bottoms to be leased to protest the issuance of a lease on the grounds of ownership, and provides a detailed process and timeline by which the protest is to be investigated, including review and determination by the administrator of the state land office. New law allows the state land office 90 days from the date a protest is filed to make a preliminary determination of state ownership and 180 days from the date a protest is filed to make a final determination.

New law specifies that a lease may be issued only to the extent that the administrator of the state land office determines that the water bottom is owned by the state. New law specifies that the determination by the administrator is not appealable under the Administrative Procedure Act but may be appealed to the 19th Judicial District Court.

New law authorizes an applicant for an oyster lease to withdraw the application and receive a full refund within 120 days after the department posts notice of the application on the website, within 30 days after a determination by the administrator, or within 30 days after a final judgment in any proceeding for judicial review of the determination.

New law prohibits oyster leasing on right-of-way purchased by pipelines.

New law changes the 30-day grace period to pay annual rent on oyster leases to 60 days.

Prior law provided that after 30 days the lease would be in default and could be taken back by the department and opened for lease to the highest bidder. New law removes the ability of the highest bidder to lease defaulted lease acreage, and requires that on or before Feb. 1st each year, the department publish a notice of each delinquency in the official journal of the parish where the lease is located. Any lessee who fails to pay the rent on or before Feb. 1st shall pay the rent plus an additional 10% penalty.

Existing regulation adopted by the Wildlife and Fisheries Commission on March 7, 2002, placed a total moratorium on the issuance of new oyster leases by the Dept. of Wildlife and Fisheries. Prior to commencement of any of the phases delineated in the legislation, new law requires that 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.

New law establishes a process to allow preferential rights to be claimed or forfeited in a detailed, specified order, prior to the lifting of the moratorium.

Effective July 1, 2016.

(Amends R.S. 56:423 and 429, and Sections 2(B) and (C) and 3 of Act No. 808 of the 2008 Regular Session; Adds R.S. 56:425(F) and 427(F) and (G))