

Louisiana 2012 Regular Legislative Session Recap

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IT'S OVER!!!

The 2012 regular legislative session adjourned sine die on June 4, 2012. A total of 1,983 bills were filed this year (1216 House Bills and 767 Senate Bills). When the dust finally settled late Monday, a total of 894 pieces of legislation passed the entire process (522 House Bills and 372 Senate Bills). The governor has decided final actions on bills he intends to sign or veto. Following is a snapshot of the major issues tackled in the latest session.

BUDGET COMPLETED

Despite the usual late-session grumblings of a possible special session necessary to resolve budget issues, **HB 1** (the state's \$25.6 billion operating budget for FY 12-13) finally passed a day before session ended. An incredible amount of political jockeying was required for the governor's proposed budget to meet approval in the House (whereas the Senate was quick to deal with the House-passed version and send it back for them to deal with it). In a slightly unusual fashion, a large number of House Republicans (which enjoy a majority) bucked the governor over his use of one-time (non-recurring) revenue to patch multi-million dollar holes in the budget. The governor got a boost from House Democrats, who favored the use of one-time money over even deeper cuts to a budget that's been sliced by billions over the last few years.

EDUCATION REFORM DOMINATES FIRST HALF OF SESSION

Gov. Jindal's education reform initiatives thoroughly dominated the first month or so of the session. Creating private school vouchers for students who are currently attending underachieving public schools was a top priority in the governor's aggressive education package. Other key legislative wins from the governor's education agenda included significant adjustments to tenure for public school teachers and rebates for donations to school tuition organizations that provide scholarships to qualified students at private elementary and high schools.

PUBLIC RETIREMENT SYSTEM OVERHAUL SCALED BACK

In addition to controversial education reform measures, Gov. Jindal also took on the monumental task of trying to overhaul the state's costly public employee pension systems. Unfortunately, he did not fare as well in this matter as he did with education issues. Only one of the governor's proposed retirement bills made it through the process: a bill which creates a so-called "cash balance" plan similar to a 401(k) plan for public employees.

PREFERENCE BILLS PUT ON HOLD

A handful of preference related bills that could have adversely impacted architects failed to make their way through the legislative process. Specifically, **HB 238** by Rep. Jack Montoucet, D-Crowley, **HB 619** by Rep. Patrick Williams, D-Shreveport, and **SB 287** by Sen. Ben Nevers, D-Bogalusa, all dealt with creating a preference for either services or materials produced in Louisiana for public projects. While well intentioned, it was the unintended consequences that drew the most concern on these bills.

LSBAE AUTHORITY CLARIFIED

AIA-LA handled a piece of legislation for the State Board of Architectural Examiners (LSBAE). The bill, **HB 1063** by Rep. Scott Simon, R-Abita Springs, essentially requires all architecture firms under the regulation of the LSBAE—regardless of the manner in which the firm is incorporated to do business. This otherwise innocuous bill received unfriendly amendments in the Senate; however, AIA-LA was able to have the amendments stripped and the bill returned to its original form. Gov. Jindal signed the bill into law late last week; it is now **ACT 514**.

VALIANT EFFORT BUT NO DICE

AIA-LA worked very hard this session in support of **HB 1034** by Rep. Franklin Foil, R-Baton Rouge. This bill sought to clarify that architects and engineers shall not be considered public employees when they are engaged to perform services on public works projects. From the onset, AIA-LA knew this bill could attract attention due to its involvement with the states ethics code. Despite some early negative press, the bill made its way all the way through the House and Senate committee. However, the bill picked up a few hijacker amendments which broadened the scope of the bill. As a result, it ran into serious challenges on the Senate floor (where it was eventually killed) due to misperceptions that the bill was an erosion of ethics. Despite the governor's approval of AIA-LA's position and an attempt to work out a few issues with legislators, the bill was not able to be resuscitated. AIA-LA will coordinate with a couple of other key groups to find an interim solution to this issue. If the problems cannot be resolved over the next several months, then legislation will be filed again next year to provide much needed clarification.

DESIGN-BUILD LEGISLATION

A few pieces of design-build legislation were filed and passed this session. AIA-LA worked with a couple other trade associations (namely ACEC and ABC) to scale back efforts to extend design-build provisions in post-Hurricane Katrina projects in New Orleans. AIA-LA and others have opposed one-year time extensions the past few legislative sessions. While certain members of the New Orleans delegation have been successful passing such measures the last few years, the political will to continue passing them has run out. Senate Transportation Committee Chairman Sen. Robert Adley, R-Benton, indicated this year is the last year those bills are approved (note: Sen. Adley just became chairman of the committee this year).

ECONOMIC DEVELOPMENT BILLS

Although most tax-related instrument were prohibited from introduction this session (due to this year being a general—not fiscal—session), Gov. Jindal still had a handful of

economic development bills in the hopper. Following is an overview of those bills (all of which passed the legislative process):

HB 674 and HB 694 (a proposed constitutional amendment and its companion bill) by House Ways and Means Chairman Rep. Joel Robideaux, R-Lafayette, allow Louisiana Economic Development (LED) or local governing authorities to extend property tax exemptions to target business sectors beyond manufacturing, including corporate headquarters, distribution facilities, data service facilities, research and development operations and digital media and software development centers. Qualifying businesses must invest a minimum of \$25 million and create at least 50 new, direct jobs.

HB 729 by Rep. Robideaux extends the single sales factor (sales within the state only) for computation of corporate taxes for manufacturing or merchandising to qualified business by allowing LED to establish a reduced corporate income and franchise tax base for businesses in the following sectors: headquarters, logistics, warehousing, data centers, clean technology, destination health care, research and development, renewable energy and digital media and software development.

HB 937 by Rep. Robideaux authorizes cash rebates equal to 25 percent (over five years) of the relocation costs for companies that relocate or expand their headquarters in Louisiana.

HB 958 by Rep. Robideaux establishes the Competitive Projects Payroll Incentive Program, which grants enhanced Quality Jobs payroll subsidies (up to 15 percent rather than up to 6 percent) to qualified businesses based on new payroll. The bill targets manufacturing of various types of durable goods (auto, aerospace, batteries, household appliances, computers), pharmaceutical, gas-to-liquids conversion and data storage and services.

OTHER TAX-RELATED ISSUES

Business and industry interests will be monitoring meetings of a committee established this session through **SCR 103** by Senate Finance Committee Chairman Jack Donahue, R-Mandeville. Sen. Donahue's resolution creates a special, interim legislative committee tasked with studying existing state tax exemptions, credits, and rebates. The committee will attempt to identify low-performing and out-dated tax laws and determine whether those laws create enough benefit to remain on the books. The committee must report its findings by February 1, 2013.

Another measure that could cause a stir in the business community during upcoming tax-related legislative sessions (which occur in odd-numbered years) is **HB 1104** by Rep. Katrina Jackson, D-Monroe. Rep. Jackson's bill requires state agencies and offices that administer tax rebates, credits, or incentives to make annual reports to the legislature on whether such measure has been successful in meeting the purpose for which it was enacted. The legislation requires the House Ways and Means Committee and the Senate Revenue and Fiscal Affairs Committee to conduct hearings on the reports every odd-numbered year. The bill also requires those committees to analyze tax incentives which caused revenue loss to the state.

AIA-LA UPDATED BILL TRACKING REPORT

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| HB 8 | Simon Martiny | Corrects the name of an office designated in statutes relative to equal access to governmental and public facilities for the disabled community. |
| | Bill History: | 08-01-12 G Effective |
| HB 79 | Arnold | Exempts certain contractors licensed by the state fire marshal from the definition of electrical contractor. |
| | Bill History: | 04-10-12 H Meeting set for 9:00 a.m. Rm. 1 House Commerce SUMMARY  |
| HB 238 | Montoucet | Makes preference for goods produced, manufactured, or assembled in La. mandatory. |
| | Bill History: | 02-24-12 H Referred to House Committee on House Appropriations |
| HB 295 | Bishop, W. Murray | Prohibits disqualification or ineligibility to practice a licensed trade or profession solely because of a prior criminal record, unless a conviction directly relates to the position sought. |
| | Bill History: | 08-01-12 G Effective |
| HB 306 | Leger | Provides for the licensure of professional engineers currently licensed in other jurisdictions. |
| | Bill History: | 04-03-12 H Involuntarily Deferred House Commerce |
| HB 327 | Richard | Provides for a 10% reduction of all state professional, personal, and consulting service contracts. |
| | Bill History: | 05-29-12 S Meeting set for 9:00 a.m., Rm. A-B Senate Finance SUMMARY  |
| HB 329 | Champagne | Requires recipients of public contracts to make available the names and amounts paid to individuals for hourly services. |
| | Bill History: | 04-24-12 H Meeting set for 9:00 A.M. RM. 3 House Transportation SUMMARY  |
| HB 367 | Leger Murray | Provides relative to construction managers or third-party consultants employed by a public entity. |
| | Bill History: | 08-01-12 G Effective |
| HB 386 | Ponti Johns | Provides relative to home improvement contracting. |
| | Bill History: | 08-01-12 G Effective |
| HB 501 | Leger | Provides for qui tam actions in cases of misuse of public funds. |
| | Bill History: | 05-07-12 H Involuntarily Deferred House Civil Law |
| HB 593 | Talbot Martiny | Excepts work performed by a naval architect or marine engineer from provisions regulating engineers and land surveyors. |
| | Bill History: | 03-01-12 H Referred to House Committee on House Commerce |
| HB 619 | Williams, P | Provides for a preference for services by companies domiciled in La. relative to the public bid process. |
| | Bill History: | 05-07-12 H Meeting set for 9:00 a.m. Rm. 5 House Appropriations SUMMARY |
| HB 652 | Leger Adley | Authorizes ports to use the design-build method on certain construction projects. |
| | Bill History: | 05-30-12 H Enrolled |
| HB 689 | Morris, Jay | Provides for the regulation of scrap metal dealers. |
| | Bill History: | 03-01-12 H Referred to House Committee on House Commerce |
| HB 732 | Burns, H. Adley | Provides for licensure of individuals with military training and their spouses. |

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| | | Bill History: 08-01-12 G Effective |
| HB 751 | Richardson | Provides relative to the purchase of used or secondhand property. Became HB 1187. |
| | Companions: | HB 1187 Richardson (Substitute) 8- 1-12 G Effective |
| | | Bill History: 04-04-12 H Set on the House Orders |
| HB 797 | Brossett | Provides for a twice annual report to the Joint Legislative Committee on the Budget regarding contracts let in the construction of the University Medical Center in New Orleans. |
| | | Bill History: 05-15-12 H Returned to the calendar - subject to call |
| HB 803 | Ortego | Requires the use of certain materials with low volatile organic compound content in public buildings. |
| | | Bill History: 04-24-12 H Meeting set for 9:00 A.M. RM. 5 House Appropriations SUMMARY |
| HB 854 | LeBas | Allows local bidder to match nonlocal low bidder on public contracts. |
| | | Bill History: 03-02-12 H Referred to House Committee on House Transportation |
| HB 900 | Dixon White | Authorizes the governing authority of Rapides Parish to provide zoning regulations and restrictions in Rapides Parish Police Jury District D. |
| | | Bill History: 05-31-12 G Effective |
| HB 924 | Bishop, W. Murray | Creates the Downman Road Economic Development District in Orleans Parish. |
| | | Bill History: 06-07-12 G Effective |
| HB 1034 | Foil Amedee | Excludes persons whose public service is limited to certain professional services from the provisions of the Code of Governmental Ethics. |
| | | Bill History: 05-22-12 S Failed to pass (Vote: Y: 13/N: 25) |
| HB 1063 | Simon Appel | Provides relative to the practice of architecture through firms. |
| | | Bill History: 06-05-12 G Effective |
| HB 1094 | Leger | Provides relative to construction contracts. |
| | | Bill History: 04-04-12 H Referred to House Committee on House Civil Law |
| HB 1166 | Ponti | Provides relative to the state uniform construction code. |
| | | Bill History: 04-04-12 H Referred to House Committee on House Commerce |
| SB 126 | Murray Bishop, W. | Extends the length of time relative to the utilization of design-build contracts. |
| | | Bill History: 07-01-12 G Effective |
| SB 192 | Adley | Provides for licensure of individuals with military training and their spouses. |
| | | Bill History: 03-29-12 H Referred to House Committee on House Commerce |
| SB 217 | Crowe | Provides relative to discrimination regarding certain public contracts including the limitation of categories for nondiscrimination purposes. |
| | | Bill History: 05-07-12 S Set on the Senate Orders |
| SB 258 | Appel Abramson | Provides relative to preemptive periods for certain actions involving surveying, design, and construction of immovables or improvements. |
| | | Bill History: 05-29-12 S Enrolled |

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| SB 265 | Morrell | Authorizes the state fire marshal to condemn and order demolition or removal of certain buildings and structures located in a parish or municipality. |
| | Bill History: | 05-29-12 H Meeting set for 10:00 A.M. RM. 1 House Commerce SUMMARY |
| SB 287 | Nevers | Provides for fair treatment for materials produced, manufactured, or fabricated in Louisiana used in public works. |
| | Bill History: | 04-11-12 H Referred to House Committee on House Transportation |
| SB 318 | Martiny Talbot | Provides relative to naval architects and marine engineers and the authority of the Louisiana Professional Engineering and Land Surveying Board. |
| | Bill History: | 05-04-12 G Effective |
| SB 338 | Appel Henry | Provides for time period between award and execution of certain public works contracts. |
| | Bill History: | 07-01-12 G Effective |
| SB 339 | Appel | Provides for the time period for execution of acceptance of a public works contract. |
| | Bill History: | 03-14-12 S Meeting set for At Adj. Senate Transportation SUMMARY |
| SB 340 | Appel | Provides relative to escrow of funds due under contract and non-waiver of provisions by owner or contractor. |
| | Bill History: | 04-17-12 S Meeting set for 9:00 a.m., Hainkel Rm. Senate Judiciary (A) SUMMARY |
| SB 408 | Murray Jackson, G | Provides for shifting of private mains to accommodate a public system. |
| | Bill History: | 06-01-12 H Enrolled |
| SB 409 | Murray | Authorizes the Sewerage and Water Board of New Orleans to use design-build contracts. |
| | Bill History: | 05-22-12 S Failed to pass (Vote: Y: 18/N: 16) |
| SB 455 | Peterson | Creates the Louisiana Statewide Education Facilities Authority. |
| | Bill History: | 04-12-12 S Meeting set for At Adj., Hainkel Rm. Senate Education SUMMARY |
| SB 499 | Riser | Prohibits the State Bond Commission from approving bonds, notes, or other indebtedness of political subdivisions against whom there is an unpaid judgment issued by a court of competent jurisdiction for amounts owed for services performed under |
| | Companions: | HB 1001 Robideaux (Identical) 4-17-12 H Meeting set for 9:00 A.M. RM. 6, House Ways and Means |
| | Bill History: | 05-01-12 H Meeting set for 10:00 A.M. RM. 6 House Ways and Means SUMMARY |
| SB 501 | Thompson, F | Provides relative to electronic bidding on public contracts. |
| | Bill History: | 03-02-12 S Referred to Senate Committee on Senate Transportation |
| SB 538 | White Ponti | Provides relative to the Commercial Building Energy Conservation Code. |
| | Bill History: | 08-01-12 G Effective |
| SB 715 | Adley | Authorizes ports to use the design-build method on certain construction projects. |
| | Bill History: | 04-03-12 S Referred to Senate Committee on Senate Transportation |
| SB 754 | Mills St. Germain | Provides an exception to the provisions of law relative to ethical standards for public servants. Substitute for SB 81. |
| | Companions: | SB 81 Mills (Substitute) 4-26-12 S Set on the Senate Orders |

Bill History: 06-05-12 S Enrolled

