

HOUSE COMMITTEE AMENDMENTS

2018 Regular Session

Amendments proposed by House Committee on Labor and Industrial Relations to Engrossed Senate Bill No. 336 by Senator Riser

1 AMENDMENT NO. 1

2 On page 1, line 2, delete "reenacted R.S. 23:1553(G)" and insert in lieu thereof the
3 following:

4 "reenact R.S. 23:1(A) and (C)(3), 382(A) and (B), 390(C) and (D), 1203.1(A)(1) through (4)
5 and (6), (B)(introductory paragraph),(E), (F)(introductory paragraph), (1), (2)(introductory
6 paragraph), (3), and (5), (G)(2) and (3), (H), and (J), 1203.1.1(A), 1553(G), R.S. 36:3(2), (4),
7 (6) and (7), 8(E)(1), 301(C), 302, 303, 304(A)(introductory paragraph), (8), (9)(b),
8 (B)(introductory paragraph), (1)(a)(i) and (ii), and 305 through 307"

9 AMENDMENT NO. 2

10 On page 1, line 2, after "repeal" and before "R.S." insert "R.S. 36:8(E)(2)(j) and"

11 AMENDMENT NO. 3

12 On page 1, at the end of line 6, insert "to provide for a change of title of the officers of the
13 commission; to provide for technical corrections;"

14 AMENDMENT NO. 4

15 On page 1, line 10, delete "R.S. 23:1553(G) is" and insert in lieu thereof "R.S. 23:1(A) and
16 (C)(3), 382(A) and (B), 390(C) and (D), 1203.1(A)(1) through (4) and (6), (B)(introductory
17 paragraph), (E), (F)(introductory paragraph), (1), (2)(introductory paragraph), (3), and (5),
18 (G)(2) and (3), (H), and (J), 1203.1.1(A), and 1553(G) are"

19 AMENDMENT NO. 5

20 On page 1, between lines 10 and 11 insert the following:

21 "§1. Louisiana Workforce Commission established; purpose; definitions
22 A. The Louisiana Workforce Commission is hereby created and established
23 to operate an integrated workforce development delivery system in this state, in
24 particular through the integration of job training, employment and employment-
25 related education and training programs, vocational rehabilitation services,
26 independent living services, and blind services programs, and to administer the
27 state's unemployment and workers' compensation programs. The duties of this
28 commission shall be exercised and discharged under the supervision and direction
29 of the ~~executive director~~ secretary. He shall have charge of the administration and
30 enforcement of all laws, rules, policies, and regulations, which it is the duty of the
31 commission to administer and enforce, and shall direct all inspections and
32 investigations, except as otherwise provided by law.

33 * * *

34 C. As used in this Title, unless the context clearly indicates otherwise, the
35 following terms shall be defined as follows:

36 * * *

37 (3) "~~Executive director~~" means the executive director "Secretary" means the
38 secretary of the commission.

39 * * *

40 §382. Apprenticeship council

1 A. The ~~executive director~~ secretary shall appoint an apprenticeship council,
2 composed of three representatives each from employer and employee organizations
3 respectively, and of two representatives of the general public. The three employer
4 representatives shall be selected from lists supplied by employer organizations which
5 are participating in bona fide apprenticeship programs. The three employee
6 representatives may be representatives of labor organizations, who have been
7 nominated by state labor federations. The state official in charge of trade and
8 industrial education shall, ex officio, be a member of the ~~said~~ council. Each member
9 shall be appointed for a term of three years. Any member appointed to fill a vacancy
10 occurring prior to the expiration of the term of his predecessor shall be appointed for
11 the remainder of the ~~said~~ term. Each member of the council not otherwise
12 compensated by public monies, shall be reimbursed for transportation and shall be
13 paid thirty-five dollars per day for each day spent in attendance at meetings of the
14 apprenticeship council.

15 B. The apprenticeship council shall meet at the call of the ~~executive director~~
16 secretary or the director of apprenticeship and shall aid in formulating policies for
17 the effective administration of this Chapter. Subject to the approval of the ~~executive~~
18 ~~director~~ secretary, the apprenticeship council may recommend standards and
19 procedures for registration and de-registration of apprenticeship programs in
20 conformity with established programs approved by the United States Department of
21 Labor, Office of Apprenticeship, and for approval of apprenticeship agreements
22 which in no case shall be lower than those prescribed by this Chapter and by the
23 United States Department of Labor, Office of Apprenticeship, or lower than
24 approved national standards; shall issue such rules and regulations as may be
25 necessary to carry out the intent and purposes thereof; and shall perform such other
26 functions as the ~~executive director~~ secretary may direct. Not less than once a year the
27 apprenticeship council shall make a report, through the ~~executive director~~ secretary,
28 of its activities and findings to the legislature and to the public.

29 * * *

30 §390. Settlement of controversies or complaints

31 * * *

32 C. Upon the complaint of any interested person or upon his own initiative,
33 the director of apprenticeship may investigate to determine if there has been a
34 violation of the terms of an apprenticeship agreement made under this Chapter and
35 hold hearings, inquiries, and other proceedings necessary to such investigations and
36 determination. The director of apprenticeship shall investigate programs only as
37 necessary to establish compliance, and then only upon proper notice. The parties to
38 such agreement shall be given a fair and impartial hearing, after reasonable notice
39 thereof. All hearings, investigations, and determinations shall be made under
40 authority of reasonable rules and procedure prescribed by the apprenticeship council,
41 subject to the approval of the ~~executive director~~ secretary.

42 D. The determination of the director of apprenticeship shall be filed with the
43 ~~executive director~~ secretary. If no appeal therefrom is filed with the ~~executive~~
44 ~~director~~ secretary within twenty days after the date thereof, such determination shall
45 become the order of the ~~executive director~~ secretary. Any person aggrieved by any
46 determination or action of the director of apprenticeship may appeal therefrom to the
47 ~~executive director~~ secretary who shall hold a hearing thereon, after due notice to the
48 interested parties. Orders and decisions of the ~~executive director~~ secretary shall be
49 prima facie lawful and reasonable if supported by reasonable and competent
50 evidence. Any party to an apprenticeship agreement aggrieved by an order or
51 decision of the ~~executive director~~ secretary may appeal to the courts on questions of
52 law. The decision of the ~~executive director~~ secretary shall be conclusive if no appeal
53 therefrom is filed within thirty days after the date of the order or decision.

54 * * *

55 §1203.1. Definitions; medical treatment schedule; medical advisory council

56 A. For use in this Section, the following terms shall have the following
57 meanings, unless clearly indicated otherwise by the context:

1 (1) "Assistant secretary" means an assistant secretary of the Louisiana
2 Workforce Commission responsible for the functions of the office of workers'
3 compensation administration.

4 (1) (2) "Associate medical director" means a physician who is licensed to
5 practice medicine in the state of Louisiana and has been chosen by the ~~director of the~~
6 ~~office of workers' compensation administration~~ assistant secretary pursuant to R.S.
7 23:1203.1.1.

8 (2) (3) "Council" means the medical advisory council appointed by the
9 ~~director of the office of workers' compensation administration~~ assistant secretary.

10 (3) ~~"Director" means the director of the office of workers' compensation~~
11 ~~administration.~~

12 (4) "Medical director" means a physician who is licensed to practice
13 medicine in the state of Louisiana and has been chosen by the ~~director of the office~~
14 ~~of workers' compensation administration~~ assistant secretary pursuant to R.S.
15 23:1203.1.1.

16 * * *

17 (6) "Schedule" means the medical treatment schedule to be developed by the
18 council and promulgated by the office and the ~~director~~ assistant secretary.

19 B. The ~~director~~ assistant secretary shall, through the office of workers'
20 compensation administration, promulgate rules in accordance with the
21 Administrative Procedure Act, R.S. 49:950 et seq., to establish a medical treatment
22 schedule.

23 * * *

24 E. The medical advisory council shall develop guidelines in accordance with
25 Subsections C and D of this Section and may amend the schedule in accordance with
26 Subsection C and Paragraph (D)(2) of this Section before submission to the ~~director~~
27 ~~of the office of workers' compensation administration~~ assistant secretary for initial
28 and subsequent formal adoption and promulgation in accordance with the
29 Administrative Procedure Act, R.S. 49:950, et seq.

30 F. The ~~director of the office of workers' compensation administration~~
31 ~~assistant secretary~~ shall appoint a medical advisory council, which shall be selected
32 in accordance with the following:

33 (1) The professional association in Louisiana that represents each discipline
34 enumerated in this Subsection shall provide the ~~director of the office of workers'~~
35 ~~compensation, assistant secretary on or before August 15, 2009,~~ the names of three
36 nominees, from which at least one representative shall be chosen to represent his
37 respective discipline on the council.

38 (2) The ~~director~~ assistant secretary shall select at least one representative
39 from each of the following disciplines or associations:

40 * * *

41 (3) The ~~director~~ assistant secretary may consider and appoint additional
42 representatives in order to fulfill his duties as defined in this Section.

43 * * *

44 (5) The ~~director~~ assistant secretary shall have the authority to contract with
45 a medical director and with consultants to assist the ~~director~~ assistant secretary and
46 the medical advisory council in the establishment and promulgation of the schedule.

47 G. The medical advisory council shall:

48 * * *

49 (2) Provide recommendations to the ~~director~~ assistant secretary for the
50 designation of guidelines to be established and promulgated as the medical treatment
51 schedule by the office.

52 (3) Provide any additional advice and counsel to the ~~director~~ assistant
53 ~~secretary~~ as may be reasonable and necessary, or as may be requested, relative to the
54 effective and efficient delivery of quality medical services to injured workers.

55 H. The ~~director~~ assistant secretary, with the assistance of the medical
56 advisory council, is authorized to review and update the medical treatment schedule
57 no less often than once every two years. Such updates shall be made by rules
58 promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et

1 seq. In no event shall the schedule contain multiple guidelines covering the same
 2 aspects of the same medical condition which are simultaneously in force.

3 * * *

4 J.(1) After a medical provider has submitted to the payor the request for
 5 authorization and the information required by the Louisiana Administrative Code,
 6 Title 40, Chapter 27, the payor shall notify the medical provider of their action on
 7 the request within five business days of receipt of the request. If any dispute arises
 8 after January 1, 2011, as to whether the recommended care, services, or treatment is
 9 in accordance with the medical treatment schedule, or whether a variance from the
 10 medical treatment schedule is reasonably required as contemplated in Subsection I
 11 of this Section, any aggrieved party shall file, within fifteen calendar days, an appeal
 12 with the office of workers' compensation administration medical director or associate
 13 medical director on a form promulgated by the ~~director~~ assistant secretary. The
 14 medical director or associate medical director shall render a decision as soon as is
 15 practicable, but in no event, not more than thirty calendar days from the date of
 16 filing.

17 (2) If either party, the medical director, or associate medical director believes
 18 that a potential conflict of interest exists, he shall communicate in writing such
 19 information to the ~~director~~ assistant secretary, who shall make a determination as to
 20 whether a conflict exists within two business days. The ~~director~~ assistant secretary
 21 shall notify in writing the patient, the physician, and, if applicable, the attorney of
 22 his decision within two business days.

23 * * *

24 §1203.1.1. Medical director and associate medical director

25 A. The ~~director~~ assistant secretary shall hire a medical director and an
 26 associate medical director to render decisions on disputed cases filed pursuant to R.S.
 27 23:1203.1(J).

28 * * *

29
 30 Section 2. R.S. 36:3(2), (4), (6) and (7), 8(E)(1), 301(C), 302, 303,
 31 304(A)(introductory paragraph), (8), (9)(b), (B)(introductory paragraph), (1)(a)(i) and (ii),
 32 and 305 through 307 are hereby amended and reenacted to read as follows:

33 §3. Definitions

34 For the purposes of this Title the following terms shall have the following
 35 meanings unless the context clearly indicates otherwise:

36 * * *

37 (2) "Assistant secretary" means the officer designated by law or by the
 38 secretary of each department to carry out the duties and functions of an office within
 39 certain departments, except an office of management and finance and the office of
 40 state police of the Department of Public Safety and Corrections. ~~For the Louisiana~~
 41 ~~Workforce Commission, the "director" shall mean the officer designated by law or~~
 42 ~~by the executive director to carry out the duties and functions of an office within the~~
 43 ~~Louisiana Workforce Commission except the office of management and finance.~~

44 * * *

45 (4) "Deputy secretary" means the officer authorized to be appointed by the
 46 secretary to serve as his principal administrative assistant. For the Department of
 47 Public Safety and Corrections, the "deputy secretary for public safety services" and
 48 the "deputy secretary for corrections services" shall be the officers of the department
 49 appointed by the secretary to serve as the principal administrative assistants of the
 50 secretary and references in any provision of law to the deputy secretary, where
 51 reference is to a deputy secretary of the Department of Public Safety and
 52 Corrections, shall include these two officers. ~~For the Louisiana Workforce~~
 53 ~~Commission, the "deputy executive director" shall mean the officer authorized by the~~
 54 ~~executive director to serve as his principal administrative assistant.~~

55 * * *

56 (6) "Secretary" means the officer appointed by the governor as the executive
 57 head and chief administrative officer of certain departments created and provided for
 58 by this Title. ~~For the Louisiana Workforce Commission, the "executive director"~~

1 shall mean the officer appointed by the governor as the executive head and chief
 2 administrative officer.

3 (7) "Undersecretary" means the officer designated to direct and be
 4 responsible for the functions of the office of management and finance of certain
 5 departments. ~~For the Louisiana Workforce Commission, the "chief financial officer"~~
 6 ~~shall mean the officer designated to direct and be responsible for the functions of the~~
 7 ~~office of management and finance.~~ For the Department of Children and Family
 8 Services, "undersecretary" means the officer designated to direct and be responsible
 9 for the functions of the division of management and finance within the office of
 10 children and family services.

11 * * *

12 §8. Fiscal oversight and program evaluation

13 * * *

14 E. As used in this Section, the following words shall have the following
 15 meanings unless the context clearly indicates otherwise:

16 (1) "Secretary" means the chief administrative officer of each department of
 17 the executive branch of state government, except that with respect to agencies of the
 18 Department of Education transferred under the provisions of R.S. 36:651(K),
 19 "secretary" means the Louisiana Student Financial Assistance Commission, with
 20 respect to the Department of Public Service, "secretary" means the Public Service
 21 Commission, and with respect to the Department of State Civil Service, "secretary"
 22 means the State Civil Service Commission, through the director of state civil service
 23 ~~and with respect to the Louisiana Workforce Commission, "secretary" means the~~
 24 ~~executive director.~~

25 * * *

26 §301. Louisiana Workforce Commission; creation; domicile; composition; purposes
 27 and functions

28 * * *

29 C.(1) The Louisiana Workforce Commission shall be composed of the
 30 executive office of the ~~executive director~~ secretary, the office of management and
 31 finance, the office of workforce development, the office of unemployment insurance
 32 administration, the office of workers' compensation administration, the office of
 33 occupational information services, and such other offices as shall be created by law.
 34 The Louisiana Workforce Investment Council, as more specifically provided in R.S.
 35 23:2042 et seq., shall be placed within the executive office of the ~~executive director~~
 36 secretary.

37 (2) Whenever the ~~executive director~~ secretary determines that the
 38 administration of the functions of the commission may be more efficiently performed
 39 by eliminating, merging, or consolidating existing offices or establishing new
 40 offices, he shall present a plan therefor to the legislature for its approval by statute.

41 §302. Officers of the commission; compensation for one office only

42 A. The officers of the commission shall be the ~~executive director, the chief~~
 43 ~~financial officer, the deputy executive director if a deputy executive director is~~
 44 ~~appointed, and directors;~~ secretary, the undersecretary, the deputy secretary if a
 45 deputy secretary is appointed, and assistant secretaries, each of whom shall be
 46 selected and shall perform functions as provided in this Title.

47 B. No person serving as ~~executive director, chief financial officer, deputy~~
 48 ~~executive director, or director~~ secretary, undersecretary, deputy secretary, or assistant
 49 secretary shall receive any additional salary from the state other than that salary
 50 which he receives by virtue of serving in any one of such offices. Any statewide
 51 elected official appointed to serve as ~~executive director, chief financial officer,~~
 52 ~~deputy executive director, or director;~~ secretary, undersecretary, deputy secretary,
 53 or assistant secretary shall not receive any additional salary from the state other than
 54 that salary which he receives as a statewide elected official.

55 C. Notwithstanding any provision herein to the contrary, subject to approval
 56 of the governor, any person, including any statewide elected official, serving or
 57 appointed to serve as ~~executive director, chief financial officer, deputy executive~~
 58 ~~director or director;~~ secretary, undersecretary, deputy secretary, or assistant secretary

1 may receive additional compensation for part-time services rendered as an instructor
2 in post-secondary educational institutions, or as a member of the National Guard.

3 §303. ~~Executive director~~ Secretary

4 There shall be ~~an executive director~~ a secretary, who shall be appointed by
5 the governor with consent of the Senate and who shall serve at the pleasure of the
6 governor at a salary fixed by the governor, which salary shall not exceed the amount
7 approved for the position by the legislature while in session. The ~~executive director~~
8 secretary shall serve as the executive head and chief administrative officer of the
9 Louisiana Workforce Commission and shall have the responsibility for the policies
10 of the commission, except as otherwise provided by this Title, and for the
11 administration, control, and operation of the functions, programs, and affairs of the
12 commission; provided that the ~~executive director~~ secretary shall perform his
13 functions under the general control and supervision of the governor.

14 §304. Powers and duties of ~~executive director~~ secretary

15 A. In addition to the functions, powers, and duties otherwise vested in the
16 ~~executive director~~ secretary by law, he shall:

17 * * *

18 (8) Provide for the ongoing merger and consolidation of the agencies and
19 functions transferred to his commission and submit a report thereon to the governor
20 and the legislature, which report shall accompany the budget request which he
21 submits under provisions of R.S. 39:33. Such report shall include a statement of the
22 goals of the commission and of the programs thereof and shall summarize the
23 accomplishments of the commission in meeting such goals and implementing such
24 programs. The report shall also contain a specific statement of the reorganization
25 and consolidation plan for the commission for the next year and shall include a report
26 on the implementation of such reorganization and consolidation plan for the previous
27 year. The report concerning reorganization shall specifically detail the extent to
28 which the commission has achieved goals stated the previous year with respect to
29 merger and consolidation of functions, abolition of agencies, consolidation of
30 offices, elimination of job positions, and efficiency and economy in delivery of
31 services. The report shall contain any recommendations with respect to
32 reorganization which may require legislative action under the provisions of this Title.
33 A copy of the report and recommended legislation shall also be submitted by the
34 ~~executive director~~ secretary to the presiding officer of both houses of the legislature.
35 The presiding officer shall refer the report to the appropriate committee having
36 jurisdiction of the subject matter as provided in the rules of the respective house.

37 (9)

38 * * *

39 (b) The ~~executive director~~ secretary may submit the annual report required
40 by this Paragraph in electronic format and is further authorized, but is not required,
41 to submit the report at the time of submission of the annual report required by
42 Paragraph (7) of this Subsection.

43 B. The ~~executive director~~ secretary shall have authority to:

44 (1)(a) Except as otherwise specifically provided in R.S. 36:801 and R.S.
45 36:803:

46 (i) Employ, appoint, remove, assign, and promote such personnel as is
47 necessary for the efficient administration of the executive office of the ~~executive~~
48 director secretary and the performance of its powers, duties, functions, and
49 responsibilities and such other personnel, who are not assigned to an office, as may
50 be necessary for the efficient administration of the commission and for the
51 performance of the responsibilities, powers, duties, and functions of agencies
52 transferred to it;

53 (ii) Employ, assign, and remove all personnel employed for the commission
54 on a contractual basis, ~~and,~~

55 * * *

56 §305. Deputy ~~executive director~~ secretary

57 There may be a deputy ~~executive director~~ secretary of the commission, who
58 shall be appointed by the ~~executive director~~ secretary with consent of the Senate and
59 who shall serve at the pleasure of the ~~executive director~~ secretary at a salary fixed

1 by the ~~executive director~~ secretary, which salary shall not exceed the amount
 2 approved for such position by the legislature while in session. The duties and
 3 functions of the deputy ~~executive director~~ secretary shall be determined and assigned
 4 by the ~~executive director~~ secretary. If appointed, he shall serve as acting ~~executive~~
 5 ~~director~~ secretary in the absence of the ~~executive director~~ secretary.

6 §306. ~~Chief financial officer~~ Undersecretary; functions; office of management and
 7 finance

8 A. There shall be a ~~chief financial officer~~ an undersecretary of the Louisiana
 9 Workforce Commission, who shall be appointed by the governor with the consent
 10 of the Senate and who shall serve at the pleasure of the governor at a salary fixed by
 11 the governor, which salary shall not exceed the amount approved for such position
 12 by the legislature while in session. The ~~chief financial officer~~ undersecretary shall
 13 be directly responsible to and shall perform his functions under the supervision and
 14 control of the ~~executive director~~ secretary.

15 B. The ~~chief financial officer~~ undersecretary shall direct and be responsible
 16 for the functions of the office of management and finance within the Louisiana
 17 Workforce Commission. In such capacity he shall be responsible for accounting and
 18 budget control, procurement and contract management, management and program
 19 analysis, personnel management, and grants management for the commission and all
 20 of its offices, including all agencies transferred to the Louisiana Workforce
 21 Commission, except as otherwise specifically provided in this Title. He shall
 22 employ, appoint, remove, assign, and promote such personnel as is necessary for the
 23 efficient administration of the office of management and finance and the
 24 performance of its powers, duties, functions, and responsibilities, in accordance with
 25 applicable civil service laws, rules, and regulations, and with policies and rules of
 26 the commission, all subject to budgetary control and applicable laws. The ~~chief~~
 27 ~~financial officer~~ undersecretary shall exercise all powers and authority granted to
 28 him in this Title subject to the overall direction and control of the ~~executive director~~
 29 secretary.

30 §307. ~~Directors~~ Assistant secretaries

31 A. Each office within the Louisiana Workforce Commission, except the
 32 office of management and finance, shall be under the immediate supervision and
 33 direction of a ~~director~~ an assistant secretary, who shall be appointed by the governor
 34 with consent of the Senate. Each shall serve at the pleasure of the governor and shall
 35 be paid a salary which shall be fixed by the governor, which salary shall not exceed
 36 the amount approved for such position by the legislature while in session.

37 B. Except as otherwise expressly provided in this Title, the duties and
 38 functions of each office and its ~~director~~ assistant secretary shall be determined by the
 39 ~~executive director~~ secretary, and all of such duties and functions shall be exercised
 40 under the direct supervision and control of the ~~executive director~~ secretary.

41 C. Except as otherwise provided in R.S. 36:801, each ~~director~~ assistant
 42 secretary shall employ, appoint, remove, assign, and promote such personnel as is
 43 necessary for the efficient administration of his office and its programs and the
 44 performance of its powers, duties, functions, and responsibilities, in accordance with
 45 applicable civil service laws, rules, and regulations, and with policies and rules of
 46 the commission, all subject to budgetary control and applicable laws.

47 D. Each ~~director~~ assistant secretary shall exercise all powers and authority
 48 granted to him in this Title subject to the overall direction and control of the
 49 ~~executive director~~ secretary."

50 AMENDMENT NO. 6

51 On page 2, line 1, change "Section 2." to "Section 3."

52 AMENDMENT NO. 7

53 On page 2, line 5, change "Section 3." to "Section 4."

1 AMENDMENT NO. 8

2 On page 2, line 12, change "Section 4." to "Section 5."

3 AMENDMENT NO. 9

4 On page 2, line 14, change "Section 5." to "Section 6."

5 AMENDMENT NO. 10

6 On page 2, delete line 28, and insert in lieu thereof the following:

7 "Section 7. R.S. 36:8(E)(2)(j) and R.S. 49:191(8)(a) are hereby repealed in their
8 entirety.

9 Section 8. The Louisiana State Law Institute is hereby directed to change all
10 references to "executive director" to "secretary"; all references to "deputy executive director"
11 to "deputy secretary"; all references to "chief financial officer" to "undersecretary"; and all
12 references to "director" to "assistant secretary" throughout the Louisiana Revised Statutes
13 of 1950 except as provided in R.S. 23:382, 390, 1203.1, and 1203.1.1."

14 AMENDMENT NO. 11

15 On page 2, line 29, change "Section 7." to "Section 9."