

2017 Regular Session

HOUSE BILL NO. 307

BY REPRESENTATIVE LYONS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX RETURN: Requires a tax clearance from the Dept. of Revenue for certain licenses, permits, tax resale certificates, and state contracts

1 AN ACT

2 To enact R.S. 39:1624(A)(10) and R.S. 47:1508(B)(41) and 1678, relative to tax clearances  
3 from the Department of Revenue; to require a tax clearance for the issuance or  
4 renewal of a sales tax resale certificate; to require a tax clearance for approval of  
5 certain state contracts; to provide for exceptions; to provide for an effective date; and  
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 39:1624(A)(10) is hereby enacted to read as follows:

9 §1624. Approval of contract; penalties

10 A. Before approving a proposed contract for professional, personal,  
11 consulting, or social services, the state chief procurement officer or an assistant shall  
12 have determined that:

13 \* \* \*

14 (10) The prospective contractor is current in the filing of all applicable tax  
15 returns and reports, and in payment of all taxes, interest, penalties, and fees owed to  
16 the state and collected by the Department of Revenue in accordance with R.S.  
17 47:1678.

18 Section 2. R.S. 47:1508(B)(41) and 1678 are hereby enacted to read as follows:

19 §1508. Confidential character of tax records

20 \* \* \*

1 B. Nothing herein contained shall be construed to prevent:

2 \* \* \*

3 (41) Upon the request of the state chief procurement officer, for purposes of  
4 the requirements established under R.S. 47:1678, the secretary is authorized to  
5 disclose to the central purchasing agency information concerning whether a  
6 prospective contractor for a contract with the state for the procurement of personal,  
7 professional, consulting, or social services or the purchasing of food, supplies, or  
8 major repairs that requires the approval of the central purchasing agency is current  
9 in the filing of all applicable tax returns and reports and in the payment of all taxes,  
10 interest, penalties, and fees owed to the state and collected by the Department of  
11 Revenue. The information disclosed shall be used solely for the purpose of  
12 determining whether the contract may be approved by the central purchasing agency.  
13 The secretary shall not disclose any data from returns or reports provided by the  
14 Internal Revenue Service. Any information so furnished shall be considered and held  
15 as confidential and privileged by the central purchasing agency as is required under  
16 Subsection A of this Section.

17 \* \* \*

18 §1678. Tax clearances; resale certificates; certain procurement contracts

19 A. Notwithstanding any other provision of law to the contrary, no state sales  
20 tax resale certificate shall be issued or renewed for any applicant unless the applicant  
21 is current in filing all tax returns and in payment of all taxes, interest, penalties, and  
22 fees owed to the state of Louisiana.

23 B. Notwithstanding any other provision of law to the contrary, no contract  
24 that requires the review and approval of the central purchasing agency for the  
25 procurement of personal, professional, consulting, or social services or the  
26 purchasing of food, supplies, or major repairs shall be approved unless the chief  
27 procurement officer for the central purchasing agency has received a tax clearance  
28 from the Department of Revenue indicating the proposed contractor is current in  
29 filing all tax returns and in payment of all taxes, interest, penalties, and fees owed

1 to the state of Louisiana. The tax clearance required by this Section shall not be  
2 required for purposes of bidding on or solicitation of a procurement contract. For  
3 purposes of this Section, the tax clearance shall be required for the approval of all  
4 procurement contracts with this state for purposes including but not limited to the  
5 following:

6 (1) Capital construction.

7 (2) Any product, good, service, or repair.

8 (3) Supplies, services, or major repairs, including but not limited to high  
9 technology acquisitions or of complex services.

10 (4) Consulting, professional, personal, and social services.

11 (5) Purchase or lease of property as authorized by law.

12 (6) Medical and laboratory supplies and medical equipment required for the  
13 purpose of diagnosis or direct treatment of a patient by a health care provider in a  
14 hospital or clinical setting, including procurement through a group purchasing  
15 organization.

16 C. An exception to the requirements of this Section for a procurement  
17 enumerated in Subsection B of this Section is authorized in either of the following  
18 circumstances:

19 (1) The state chief procurement officer or his designee if the designee is  
20 above the level of procurement officer may make or authorize others to approve a  
21 contract for emergency procurements when there exists an imminent threat to the  
22 public health, welfare, safety, or public property under emergency conditions as  
23 defined in accordance with regulations.

24 (2) The state chief procurement officer or his designee if the designee is  
25 above the level of procurement officer determines in writing that there is only one  
26 source for the required product, service, or major repair item.

27 D. This Section shall not apply to any of the following:

1           (1) Contracts for construction, maintenance, or repair of highways and  
2           streets or to contracts financed in whole or in part by contributions or loans from any  
3           agency of the United States government.

4           (2) A procurement contract of an institution of higher education or other  
5           agency of higher education if the state chief procurement officer has delegated  
6           authority to procure the contracted services using private grant funds or federal funds  
7           that are available specifically for purposes of the contract.

8           E. The state chief procurement officer shall provide the secretary a list of the  
9           prospective contractors that require a tax clearance for approval of a procurement  
10          contract. Such list shall be submitted to the secretary in the manner and form  
11          prescribed by the secretary. The secretary, upon receipt, shall provide the state chief  
12          procurement officer with a signed tax clearance for each applicant indicating whether  
13          the proposed contractor is current in filing all tax returns and in payment of all taxes,  
14          interest, penalties, and fees owed to the state of Louisiana, excluding items under  
15          formal appeal pursuant to applicable statutes or being paid in compliance with the  
16          terms of an installment agreement. Where an assessment against a proposed  
17          contractor has become final and collectible by distraint and sale, such proposed  
18          contractor shall not be approved for a procurement contract until such time as the  
19          proposed contractor has filed the applicable tax returns, or resolved the assessment,  
20          or paid or made arrangements to pay the delinquent tax liability and the secretary  
21          notifies the state chief procurement officer of the payment or arrangement to pay.

22          F. The secretary is authorized to promulgate rules and regulations in  
23          accordance with the Administrative Procedure Act as may be necessary to implement  
24          the provisions of this Section.

25          Section 3. The provisions of this Act shall apply to any request for issuance or  
26          renewal of a resale certificate submitted to the Department of Revenue and to any approval  
27          or request for approval of a contract submitted to the central purchasing agency on or after  
28          October 1, 2017.

1 Section 4. This Act shall become effective upon signature of the governor or, if not  
2 signed by the governor, upon expiration of the time for bills to become law without signature  
3 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If  
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
5 effective on the day following such approval.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 307 Reengrossed

2017 Regular Session

Lyons

**Abstract:** Requires a tax clearance from the Dept. of Revenue for the issuance or renewal of a tax resale certificate and the approval of certain state procurement contracts.

Proposed law provides that in order for a person to receive a sales tax resale certificate from the Dept. of Revenue, a tax clearance certificate shall be required to confirm that the applicant is current in the filing of all applicable tax returns and reports, and in payment of all taxes, interest, penalties, and fees owed to the state and collected by the Dept. of Revenue.

Present law establishes requirements for the approval of procurement contracts by the state's central purchasing agency, the office of state procurement.

Proposed law changes present law by adding a requirement that before the central purchasing agency can approve a contract for professional, consulting, or social services, or for the purchase of food, supplies, or major repairs, a tax clearance certificate shall be required to confirm that the proposed contractor is current in the filing of all applicable tax returns and reports, and in payment of all taxes, interest, penalties, and fees owed to the state and collected by the Dept. of Revenue.

Proposed law provides that a tax clearance certificate shall not be required for purposes of bidding or the solicitation of a procurement contract.

Proposed law requires that the state chief procurement officer provide the secretary of the Dept. of Revenue (secretary) a list of the prospective contractors that require a tax clearance for approval of a procurement contract. The secretary is then required to provide the state chief procurement officer with a signed tax clearance for each applicant indicating whether the proposed contractor is current in filing all tax returns and in payment of all taxes, interest, penalties, and fees owed to the state of La., excluding items either under formal appeal pursuant to present law or being paid in compliance with the terms of an installment agreement.

Proposed law provides that in instances where an assessment against a proposed contractor has become final and collectible by distraint and sale, such proposed contractor shall not be approved for a procurement contract until such time as the proposed contractor has filed the applicable tax returns and paid or made arrangements to pay the delinquent tax liability and the secretary notifies the state chief procurement officer of the payment or arrangement to pay.

Present law provides for the circumstances under which the secretary may disclose certain taxpayer information to other state agencies.

Proposed law changes present law by adding an exception for a request made by the state chief procurement officer, for purpose of the proposed law, specifically concerning whether a prospective contractor is, as required by proposed law, current in the filing of all applicable tax returns and reports and in the payment of all taxes, interest, penalties, and fees owed to the state and collected by the Dept. of Revenue. The information disclosed shall be used solely for the purpose of determining whether the contract may be approved by the Office of State Procurement.

Proposed law exempts from the requirements of proposed law procurements in the following circumstances:

- (1) A contract approved by the central purchasing agency that involves an emergency or a sole source procurement.
- (2) A contract for construction, maintenance, or repair of highways, or a contract financed by the U.S. government.
- (3) A contract for an institution of higher education or other agency of higher education if the state chief procurement officer has delegated authority to procure contracted services using private grant funds or federal funds.

Proposed law authorizes the secretary to promulgate rules and regulations in accordance with the Administrative Procedure Act as may be necessary to implement the provisions of proposed law.

Proposed law applies prospectively only.

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

(Adds R.S. 39:1624(A)(10) and R.S. 47:1508(B)(41) and 1678)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Restrict applicability of proposed law to applications for sales tax resale certificates and certain state procurement contracts which require the approval of the Office of State Procurement.
2. Add an exception to the confidentiality provisions of present law concerning the disclosure of certain taxpayer information by the secretary of the Dept. of Revenue to the chief procurement officer for purposes of proposed law.
3. Establish the procedure for the exchange of information between the chief procurement officer and the secretary of the Dept. of Revenue regarding proposed contractors and tax clearance certificates.
4. Provide that a tax clearance certificate shall not be required for purposes of bidding or solicitation of a procurement contract.
5. Authorize rulemaking.

The House Floor Amendments to the engrossed bill:

1. Change references from the office of state procurement to the central purchasing agency.
2. Specify that the chief procurement officer is the *state* chief procurement officer.