

Regular Session, 2014

HOUSE BILL NO. 874

BY REPRESENTATIVE STUART BISHOP

LEGISLATIVE OVERSIGHT: Requires an annual report to the legislature regarding litigation instituted by a state agency

1 AN ACT

2 To enact R.S. 36:8.1, relative to reporting requirements of various state agencies of the
3 executive branch; to require an annual report to the legislature of all civil, legal
4 actions filed by an agency; to provide for the content of such reports; to provide
5 exceptions thereto; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 36:8.1 is hereby enacted to read as follows:

8 §8.1. Litigation oversight; reports to the legislature

9 A.(1) The head of each agency shall make and publish an annual report to
10 the legislature containing a list of all civil actions brought in a court of law by the
11 agency as a named party plaintiff.

12 (2) The attorney general shall make and publish an annual report to the
13 legislature containing a list of all civil actions brought in a court of law by the state
14 of Louisiana as a named party plaintiff.

15 B. Each such report shall include all cases instituted, pending, or concluded
16 during the preceding calendar year and shall:

17 (1) Contain the names of all party plaintiffs and all named party defendants
18 as they appear on the pleadings, the court which has jurisdiction over the matter, the
19 docket number, the cause of action being averred, and the relief being sought.

20 (2) Indicate the current status of the case, including whether the case has
21 been heard on the merits, whether there is a final judgment therein and, if so, an

1 indication if the final judgment was determined on a procedural or substantive issue,
2 whether the case has settled prior to any final judgment, and whether an appeal has
3 been taken and, if so, if that appeal was initiated by the agency.

4 (3) List of the name or names of all outside counsel representing the agency
5 or the state and the agreement between the agency or the attorney general on behalf
6 of the agency or the state, including the hourly rate of pay for the attorney or
7 attorneys and paraprofessionals or the percentage of compensation or commission.

8 C.(1) One week before the convening of each annual legislative session, a
9 copy of the report shall be submitted by the head of each agency and the attorney
10 general to the presiding officer of each house of the legislature and shall also be
11 submitted in accordance with the provisions of R.S. 24:772.

12 (2) The presiding officer shall refer the report to the appropriate committee
13 having jurisdiction of the subject matter as provided in the rules of the respective
14 house, and any legislative committee which receives a report may conduct a hearing
15 thereon.

16 D. The provisions of this Section shall apply to any civil action filed by
17 agencies of the following:

18 (1) Department of Agriculture and Forestry.

19 (2) Department of State Civil Service.

20 (3) Department of Economic Development.

21 (4) Department of Education.

22 (5) Department of Children and Family Services, except cases brought
23 pursuant to the Children's Code and Title 46 of the Louisiana Revised Statutes of
24 1950.

25 (6) Department of Culture, Recreation and Tourism.

26 (7) Department of Environmental Quality.

27 (8) Department of Health and Hospitals, except Medicaid fraud and recovery
28 cases.

29 (9) Department of Insurance.

- 1 (10) Department of Justice.
- 2 (11) Department of Natural Resources.
- 3 (12) Department of Public Safety and Corrections, except cases involving
4 the Motor Vehicle Safety Responsibility Law.
- 5 (13) Department of Public Service.
- 6 (14) Department of State.
- 7 (15) Department of Transportation and Development.
- 8 (16) Department of the Treasury.
- 9 (17) Department of Veterans Affairs.
- 10 (18) Department of Revenue, except those cases brought to collect less than
11 ten thousand dollars of state taxes owed.
- 12 (19) Department of Wildlife and Fisheries, except cases brought for class
13 one violations under the provisions of R.S. 56:31.
- 14 (20) Louisiana Workforce Commission, except cases involving recovery of
15 unemployment insurance payments and workers' compensation fraud.
- 16 (21) Office of the governor, including the division of administration.
- 17 (22) Office of the lieutenant governor.
- 18 E. As used in this Section, the following words and phrases have the
19 following meanings ascribed to them unless the context clearly indicates otherwise:
- 20 (1) "Civil action" means any suit, action, or cause instituted in a court of law,
21 exclusive of criminal matters, matters involving interstate compacts, actions to make
22 executory a judgment or order of any adjudicatory body of this state, or an action
23 brought pursuant to the Enforcement of Foreign Judgments Act.
- 24 (2) "Court" or "court of law" means any court authorized by Article V of the
25 Constitution of Louisiana.
- 26 (3) "Head of each agency" means the department secretary or chief
27 administrative officer of each department of the executive branch.
- 28 (4) "Outside counsel" means any attorney, other than in-house counsel, who
29 is being or has been paid by any agency or the state or who is entitled to or

1 potentially entitled to compensation or a commission as a result of the legal
2 proceeding. For purposes of this Paragraph, "in-house counsel" means any attorney
3 employed by an agency, including the Department of Justice, who is eligible to
4 participate in the Louisiana State Employees' Retirement System by virtue of such
5 employment.

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)]

Stuart Bishop

HB No. 874

Abstract: Requires the filing of an annual report with the legislature by each state agency of all civil actions initiated by the agency and by the attorney general for all civil actions initiated by the state.

Proposed law institutes a litigation reporting requirement for the state and all state agencies.

More specifically, proposed law requires the head of each agency to make and publish an annual report to the legislature containing a list of all civil actions brought in a court of law by the agency as a named party plaintiff. Also requires the attorney general to make and publish an annual report to the legislature containing a list of all civil actions initiated by the state.

Proposed law defines "civil action" as any suit, action, or cause instituted in a court of law, exclusive of criminal matters, matters involving interstate compacts, actions to make executory the judgment or order of an adjudicatory body, and actions brought pursuant to present law (Enforcement of Foreign Judgments Act). Defines "court" or "court of law" as any court authorized by present constitution (Art. V of the Const. of La.).

Proposed law requires the reports to cover all lawsuits instituted, pending, or concluded during the preceding calendar year. Requires each report to contain the following:

- (1) The names of all plaintiffs and defendants, the court and docket number, the cause of action, and the relief sought.
- (2) The current status of the case, including whether the case has been heard, whether there is a final judgment therein, whether the case has settled, and whether an appeal has been taken.
- (3) The names of all outside counsel representing the agency or the state and the agreement with the agency or the state.

Proposed law generally applies to civil actions filed by the state or state agencies listed in proposed law, but provides exceptions for the following types of matters: lawsuits brought pursuant to the Louisiana Children's Code; Medicaid fraud and recovery cases; cases involving the Motor Vehicle Safety Responsibility Law (compulsory motor vehicle insurance); cases brought by the Dept. of Revenue to collect less than \$10,000 of state taxes owed; cases brought for wildlife and fisheries' class one violations; and cases involving recovery of unemployment insurance payments and workers' compensation fraud.

Proposed law requires the report to be submitted to the legislature one week before the convening of each annual legislative session.

(Adds R.S. 36:8.1)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill.

1. Adds the office of the lieutenant governor to the list of agencies covered by proposed law.
2. Adds provisions to define "court" or "court of law" as any court authorized by Article V of the Const. of La.
3. Removes provisions expressly excluding matters that come before an administrative law judge from the definition of "civil action".
4. Requires the agreement of the agency or the attorney general relative to representation by outside counsel to be included in the report instead of requiring the "monetary agreement" to be included.
5. Makes technical changes.