

2020 Regular Session

SENATE BILL NO. 82

BY SENATOR MIZELL

FISCAL CONTROLS. Requires reporting of misappropriation of public funds received or expended by a quasi-public entity to the legislative auditor and the district attorney. (8/1/20)

1 AN ACT
2 To amend and reenact R.S. 24:523, relative to quasi-public entities; to require certain
3 officers and board members of certain quasi-public entities to notify the legislative
4 auditor of misappropriation of funds; to provide for notification to the district
5 attorney; to provide for definitions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 24:523 is hereby amended and reenacted to read as follows:

8 §523. Notification of the legislative auditor and district attorney

9 A. An agency head of an auditee who has actual knowledge of or reasonable
10 cause to believe that there has been a misappropriation of the public funds or assets
11 of his agency shall immediately notify, in writing, the legislative auditor and the
12 district attorney of the parish in which the agency is domiciled of such
13 misappropriation.

14 **B. The chief executive officer, or any officer or board member with**
15 **executive authority, of an auditee that is a quasi-public entity and who has**
16 **knowledge or reasonable cause to believe that there has been a**
17 **misappropriation of public funds received or expended by the quasi-public**

1 entity shall notify, in writing, the legislative auditor and the district attorney of
2 the parish in which the quasi-public entity is domiciled of such
3 misappropriation.

4 C.(1) "Reasonable cause", for purposes of this Section, shall include
5 information obtained as a result of the filing of a police report, an internal audit
6 finding, or other source indicating such a misappropriation of agency funds or assets
7 has occurred. The district attorney, or other prosecutorial agency, notified of such
8 misappropriation may request audit assistance from the legislative auditor with
9 respect to the misappropriation.

10 ~~B.(2)~~ For the purposes of ~~this~~ Subsection A of this Section, the terms
11 "agency head" and "his agency" shall have the same meanings as provided in R.S.
12 42:1102.

13 (3) For the purposes of Subsection B of this Section, the term
14 "quasi-public entity" shall have the same meaning as a "quasi-public agency"
15 as defined in R.S. 24:513.

16 ~~C~~D. When misappropriation is discovered and reported, the attorney general,
17 at the request of the legislative auditor, shall be authorized to recover
18 misappropriated funds from the responsible party by civil suit. Upon a finding of
19 misappropriation, the attorney general shall also seek restitution from the responsible
20 party of those costs incurred by the legislative auditor to audit, investigate, or report
21 an allegation of misappropriation, and all costs and reasonable attorney fees incurred
22 by the attorney general in the civil suit shall be recoverable from the responsible
23 party.

24 ~~D~~E. For the purposes of this Section, "responsible party" means the person
25 or entity actually responsible for the reported misappropriation.

26 Section 2. The Louisiana State Law Institute, pursuant to its statutory authority, is
27 hereby directed to re-designate R.S. 24:523(E) as enacted by this Act to R.S. 24:523(C)(4).

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

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Present law provides that the head of a state or local government agency, who has actual knowledge or reasonable cause to believe that public funds or assets of the agency have been misappropriated, will immediately notify, in writing, the legislative auditor and the district attorney of the parish in which the government agency is domiciled.

Present law defines "reasonable cause" to suspect misappropriation of funds as information obtained as a result of the filing of a police report, an internal audit finding, or other source indicating such a misappropriation of agency funds or assets has occurred.

Present law defines "quasi-public agency" as any of the following:

- (1) An organization, either not-for-profit or for profit, created by the state of La. or any local government or political subdivision to perform a public purpose.
- (2) An organization, either not-for-profit or for profit, that is a component unit of a governmental reporting entity, as defined under generally accepted accounting principles.
- (3) An organization, either not-for-profit or for profit, created to perform a public purpose and having one or more of the following characteristics:
 - (a) The governing body is elected by the general public.
 - (b) A majority of the governing body is appointed by or authorized to be appointed by a governmental entity or individual governmental official as a part of his official duties.
 - (c) The entity is the recipient of the proceeds of an ad valorem tax or general sales tax levied specifically for its operations.
 - (d) The entity is able to directly issue debt, the interest on which is exempt from federal taxation.
 - (e) The entity can be dissolved unilaterally by a governmental entity and its net assets assumed without compensation by that governmental entity.
- (4) Any not-for-profit organization that receives or expends any local or state assistance in any fiscal year. Assistance will include grants, loans, transfers of property, awards, and direct appropriations of state or local public funds. Assistance will not include guarantees, membership dues, vendor contracts for goods and services related to administrative support for a local or state assistance program, some assistance to private or parochial schools, assistance to private colleges and universities, or benefits to individuals.
- (5) Any organization, either not-for-profit or for profit, which is subject to the open meetings law and derives a portion of its income from payments received from any public agency or body.

Proposed law retains present law but requires the chief executive officer, or any officer or board member with executive authority, of a quasi-public entity who has knowledge or reasonable cause to believe that there has been a misappropriation of the public funds

received or expended by the quasi-public entity to notify, in writing, the legislative auditor and the district attorney of the parish in which the quasi-public entity is domiciled of such misappropriation.

Proposed law provides that "quasi-public entity" will have the same meaning as a "quasi-public agency" as defined in present law.

Effective August 1, 2020.

(Amends R.S. 24:523)