

2009 Legislative Update
and Other Relevant Issues

I. Public Contracts/Bid

A. Summary of current state of law

- R.S. 38:2211 Definitions
- R.S. 38:2212 Advertisement and letting to lowest responsible bidder;
public work; electronic bidding; participation in mentor-
protégé program
- R.S. 38 2212.1 Advertisement and letting to lowest responsible bidder;
materials and supplies

B. Significant changes

Act 433 - **R.S. 38:2212.7(B), R.S. 39:1496.2(B), 39:1594.3(B)**
Lots more people can participate who have actually helped to construct
the bid package

Act 161 - **R.S. 38:2212(A)(1)(d)** - The public works limit has been
increased to \$150,000

Act 174 - **R.S. 38:2212(A)(1)(b)(ii)(bb)** and **R.S. 38:2212(3)(c)(ii)** - Now
the public agency can get everything from all bidders not just the low
bidders

Act 184 - **R.S. 38:2225.2.1(A)** - Design-build has been extended to July
10, 2010 Sheriff's buildings have been added. This is only for Hurricane
Katrina parishes and the Port of New Orleans

Act 227 - **R.S. 38:2212(A)(1)(f)(v)** and **R.S. 2212.1(B)(4)(e)** - Special
districts of police jurors do not have to participate in the electronic bidding
process nor do they have to upgrade their computers for this electronic
bidding

Act 368 - **R.S. 38:2318.2** - The Percent for Universal Design Program has
been adopted for money spent by the state and state agencies on the
construction and renovation of state buildings – these buildings are to be
more than ADA compliant

Act 392 - **R.S. 38:2212.1(A)(1)** - The minimum for materials and supplies
has now been set at \$30,000

C. Attorney General Opinions

- #09-0111 Limitations on consultants competing for contracts-
R.S. 38:2212.7
- #09-0098 Piggybacking/Local Services Law
- #09-0085 Naming a public building after a living person-
R.S.42:267(A)
- #09-0078 Request for Proposals for Data Processing – as detailed
- #09-0069 Reciprocal obligation – Parish helps build library
- #09-0046 Revenue bonds secured by sales tax revenue

D. FAQ – Public Bid Law - LLA Website

<http://www.lla.la.gov/legalassistance/>

II. **Ethics**

A. Summary of current state of law

Legislative and Legal Updates: Tier one / Tier two/Tier 2.1 / Tier three

R.S. 42:1124.2.1(D)(1)(b)(v) - A board of directors of a private nonprofit corporation that is not specifically created by law - is not subject to the ethics disclosure.

B. Significant changes

Act 534 - **R.S. 42:1115.1(E)(1)** and **R.S. 42:1115.1(F)** and **R.S.42:1123(13)(a)(i)** - The exemptions for conventions - \$50.00 does not apply

Act 430 - **R.S. 42:1125** – Governor's financial records of the transition and inauguration New law changes the maximum amount that may be accepted from \$10,000 to \$5,000. All financial records of the transition and inauguration, including those of any legal entity which accepts contributions or makes expenditures for the transition or the inauguration, are public records.

C. Louisiana Board of Ethics Opinions

- 2009-543: Application of Financial Disclosure laws to incumbent and retired Sheriffs
- 2009-469: Orleans Parish School Board entering into a contract w/a company that employs a former school board member
- 2009-468: Law partner of legislator...entering into contract to provide legal services for Southern Univ. Board of Supervisors
- 2008-1150: Law firm representing LSU in connection w/contract w/OLOL w/law firm serving as special counsel for both LSU and OLOL

2007-1055: Code of Ethics would not prohibit state legislator from entering into a contract w/the SWLA Center for Health Services since it is not a branch, agency, dept. or institution of state government

2007-996: Code of Ethics would not prohibit an employee of the Office of Community Services from serving as Treasurer of the YWCA

D. Attorney General Opinion

#08-0230 A public official may be reimbursed with public monies for filing his/her financial disclosure form

III. Public Records

A. Summary of current state of law

B. Significant changes:

Act 495 - **R.S. 44:5** – Governor's Records - exemption from the public records law. Exemption now only applies apply to records having been used, being in use, possessed, or retained for use by the governor in the usual course of the duties and business of his office relating to the deliberative process of the governor, intra-office communications of the governor and his internal staff, the governor's security and schedule, or communications with or the security and schedule of the governor's spouse or children. The exemption does not prevent any person from examining and copying any records pertaining to any money or monies or any financial transactions in the control of or handled by or through the governor. Helicopter logs of Governor's travels now kept.

Act 367 - **R.S. 44:4.1(B)(10)** and **R.S. 22:42.1** - Health Records in possession of the Department of Insurance – Provides that certain health information in possession of the Dept. of Insurance is confidential; provides exceptions

Act 345 - **R.S. 44:4.1(B)(24)** and **R.S. 40:2020** - Records of deaths and hospitals associated with DHH - Provides authority for the Department of Health and Hospitals to conduct mortality reviews on persons receiving services through the office for citizens with developmental disabilities and the office of aging and adult services. All records except for the annual reports required by new law, are confidential, are not public record, and are not available for subpoena. Nor shall such information be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding or admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

Act 282 - **R.S. 44:9(A)(3)(a)** and **R.S. 44:9(A)(4)** and **R.S. 44:9(K)** – Arrest Records Increases certain processing fees and exempts the

payment of fees in certain cases relative to the expungement of arrest records.

Act 263 - **R.S. 44:4.1(B)(7)** and **R.S. 15:1601** through **R.S. 15:1614**, and **R.S. 4 36:4(O)** - Enacts the Witness Protection Services Act

Act 251 - **R.S. 44:4(29)** and numerous others - Regulation of medical psychologists - certain records are confidential Transfers the regulation of medical psychologists from the State Board of Examiners of Psychologists to the Louisiana State Board of Medical Examiners and provides for requirements for and rights acquired by licensure, prescribing drugs, and other regulations for such profession.

Act 196 - **R.S. 44:18** and numerous others - Certain Records of the Mineral Board are confidential **NATURAL RESOURCES DEPT:** Changes the name of the State Mineral and Energy Board, and changes the name of the Mineral Resources Operation Fund to the Mineral and Energy Operation Fund and requires the fund to be used by the Department of Natural Resources for the regulation of minerals, ground water and related energy activities.

Act 45 (Solely to reenact Sections 1, 2, and 3 of Act No. 891 of the 2008 Regular Session of the Legislature as that Act was enacted by the legislature, which Act amended and reenacted **R.S. 44:4.1(B)(18)** and numerous others East Baton Rouge Redevelopment Authority- certain records are confidential

C. Attorney General Opinion:

#09-0139 Inmate records are confidential

D. Public Records – LLA Website

<http://www.la.gov/legalassistance/>

IV. Public Meetings

A. Summary of current state of law

B. Attorney General Opinions:

#09-0048 Executive Sessions of public meetings – recordations are confidential

#09-0037 – Discussions of Roberts Rules and Consent Agendas

C. FAQ – Open Meetings – LLA Website

<http://www.la.gov/legalassistance/>

V. Other Relevant Issues