2021 Regular Session

HOUSE BILL NO. 491

BY REPRESENTATIVE GADBERRY

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

ETHICS/CODE: Provides an exception to allow certain public servants and related persons and legal entities to enter into certain transactions with the public servant's agency regarding specified property under certain circumstances

AN ACT

To amend and reenact R.S. 42:1123(34), relative to ethics; to allow certain municipal and parochial elected and appointed officials and related persons and legal entities to enter into certain transactions regarding specified property under certain circumstances; to remove existing limitations on certain elected officials and related persons and legal entities regarding such transactions; to require certain written notice of such transactions; to require recusal of and prohibit participation by the public servant; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 42:1123(34) is hereby amended and reenacted to read as follows:

§1123. Exceptions

This Part shall not preclude:

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(34) A member of a municipal or parish governing authority, an appointed member of a planning or zoning or appeals board or commission of a parish or municipality, ~~in a parish or municipality with a population of twenty-five thousand persons or less according to the latest federal decennial census~~ or a member of such ~~elected official's~~ public servant's immediate family or a legal entity in which ~~he~~ any such person has ~~a controlling~~ an interest from making application for the approval of the subdivision or resubdivision of property and for the zoning of such property or for a building permit and any inspections performed pursuant thereto, provided

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that (a) the zoning of such subdivided property shall not be less restrictive than the zoning of the original parcel; (b) ~~no variance or special exception from any planning or zoning regulation or requirement or any building code or permit shall be requested or granted; (c)~~ the subdivision, resubdivision, or zoning of such property shall be for residential purposes only; ~~(d)~~ (c) the application or applications submitted by or on behalf of the ~~elected official~~ public servant, a member of his immediate family, or legal entity ~~in which he has a controlling interest~~, collectively, shall be limited to the subdivision, resubdivision, or zoning of not more than twelve lots per calendar year and the construction of not more than twelve residential units per calendar year; ~~(e)~~ (d) no public funds shall be used to construct any infrastructure for the use or benefit of such property or development; ~~(f)~~ (e) the ~~elected official~~ public servant shall file written notice containing all details regarding the transaction deemed necessary by the Board of Ethics with his governing authority or board or commission and with the Board of Ethics no later than ten days prior to any hearing pertaining to any such application, or if no hearing is held pertaining to such application, shall file such notice at least ten days prior to final action on any such application; and ~~(g)~~ (f) any such ~~member of a governing authority~~ public servant shall recuse himself from any vote related to such application and shall not participate in any other aspect of the application or transaction.

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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)]

HB 491 Original 2021 Regular Session Gadberry

Abstract: Allows a member of a municipal or parish governing authority, an appointed member of a planning or zoning or appeals board or commission of a parish or municipality and related persons and legal entities to make application for the approval of the subdivision or resubdivision of property and for the zoning of such property or for a building permit and any inspections performed pursuant thereto under specified circumstances.

Present law (Code of Governmental Ethics (ethics code)) generally prohibits a public servant, a member of his immediate family, or a legal entity in which he has a controlling

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interest from bidding on or entering into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the public servant's agency. Present law further prohibits an appointed board or commission member, a member of his immediate family, or a legal entity in which he has a substantial economic interest from bidding on or entering into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the appointed member's agency. Present law further prohibits a public servant from participating in a transaction in which he, his immediately family members, and specified other persons and entities have a substantial economic interest of which he may be reasonably expected to know involving the governmental entity.

Present law (ethics code) provides an exception to allow a member of a municipal or parish governing authority in a parish or municipality with a population of 25,000 or less according to the latest federal decennial census or a member of such official's immediate family, or a legal entity in which he has a controlling interest to make application for the approval of a subdivision, resubdivision, or zoning of property or for a building permit and any inspections related thereto, provided that (1) The zoning of such property shall not be less restrictive than the zoning of the original parcel; (2) No variance or special exception from any planning or zoning regulation or requirement or any building code or permit shall be requested or granted; (3) The subdivision, resubdivision, or zoning of such property shall be for residential purposes only; (4) The application(s) submitted by or on behalf of the elected official, a member of his immediate family, or legal entity in which he has a controlling interest, collectively, shall be limited to the subdivision, resubdivision, or zoning of not more than twelve lots per calendar year and the construction of not more than twelve residential units per calendar year; (5) No public funds shall be used to construct any infrastructure for the use or benefit of such property or development; (6) The elected official shall file written notice containing all details regarding the transaction deemed necessary by the Board of Ethics with the board and the governing authority at least 10 days prior to any hearing pertaining to such application, or if no hearing is held, then at least 10 days prior to final action thereon; and (7) Any such member of a governing authority shall recuse himself from any vote related to such application and shall not participate in any other aspect of the application or transaction.

Proposed law expands the exception by (1) removing the population restriction for parishes and municipalities of 25,000 or less, (2) including appointed members of a planning or zoning or appeals board or commission of a parish or municipality and their immediate family members and related legal entities, and (3) removing the restriction that no variance or special exception from any planning or zoning regulation or requirement or any building code or permit shall be requested or granted. Proposed law further changes exception as it pertains to the related legal entities being allowed to make such applications, from those in which such a person has a controlling interest to those in which such a person has an interest. Proposed law retains the other restrictions contained in the present law exception and further requires the advance written notice regarding the transaction to be filed by the elected or appointed public servant (not just the elected governing authority members), requires such a public servant to recuse himself from any vote related to the application, and prohibits participation in any other aspect of the application or transaction by the public servant.

(Amends R.S. 42:1123(34))

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