A CONCURRENT RESOLUTION

To direct any state agency, board, or commission to comply with the Administrative Procedure Act in taking actions related to COVID-19 or to the implementation of any directive arising from an executive order or proclamation issued by the governor if such action meets the definition of a rule under the Administrative Procedure Act.

WHEREAS, the Legislature of Louisiana has previously defined what constitutes a rule; and

WHEREAS, the Legislature of Louisiana has previously provided for the emergency promulgation of rules; and

WHEREAS, the governor and agencies under his direction and control have not properly promulgated rules related to COVID-19 pursuant to the Administrative Procedure Act; and

WHEREAS, actions taken without proper compliance with the Administrative Procedure Act are ultra vires in that they exceed the authority granted by the legislature; and

WHEREAS, many of the directives contained within a gubernatorial executive order or proclamation require agency action to effectuate them; and

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act and the Louisiana Health Emergency Powers Act both contemplate compliance with the Administrative Procedure Act.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby direct any state agency, board, or commission to comply with the Administrative Procedure
Act in taking any action related to COVID-19 or to the implementation of any directive arising from an executive order or proclamation issued by the governor if such action meets the definition of a rule under the Administrative Procedure Act.

DIGEST

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HCR 28 Original 2020 Second Extraordinary Session Miguez

Abstract: Provides directive to state agencies relative to promulgation of rules related to COVID-19 health emergency

Directs a state agency, board, or commission to comply with the Administrative Procedure Act in taking any action related to COVID-19 or to the implementation of any directive arising from an executive order or proclamation issued by the governor if such action meets the definition of a rule under the Administrative Procedure Act.