

ACT No. 316

2015 Regular Session

HOUSE BILL NO. 296

BY REPRESENTATIVE TIM BURNS

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AN ACT

To amend and reenact R.S. 44:4.1(B)(28) and to enact Part V of Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 42:1191 through 1194, and R.S. 44:3.4, relative to records related to the enforcement of provisions of law under the jurisdiction of the Board of Ethics; to provide an exception to the Public Records Law for certain records of the Board of Ethics; to authorize the expungement of records relative to ethics code enforcement under certain circumstances; to provide for eligibility for obtaining expungement; to provide for the confidentiality of expunged records; to provide procedures for obtaining expungement; to provide for consideration of requests for expungement; to provide relative to the powers and duties of the ethics administrator and the Board of Ethics relative to expungement; to provide for orders of expungement; to provide for the confidentiality of deliberations and records relative to requests for expungement; to provide for the effects of expungement; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part V of Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950, comprised of R.S. 42:1191 through 1194, is hereby enacted to read as follows:

1 PART V. EXPUNGEMENT2 §1191. Eligibility; applicability

3 A. A person may request expungement of ethics enforcement records relative
4 to a complaint filed with the Board of Ethics in which it is alleged that the person
5 violated one or more provisions of this Chapter if each of the following requirements
6 is satisfied:

7 (1) The allegations in the complaint involved the person's status as a public
8 employee.

9 (2) The person was a public employee solely because of his uncompensated
10 service on a board or commission.

11 (3) The Board of Ethics issued charges based on the complaint that, at the
12 conclusion of enforcement proceedings, did not result in a finding of a violation of
13 this Chapter.

14 B. This Part shall not apply to enforcement proceedings that are concluded
15 by consent opinion.

16 §1192. Procedure

17 A.(1) A person who seeks expungement pursuant to this Part shall file a
18 written request for expungement with the ethics administrator. The person shall set
19 forth in the request facts that demonstrate that the requirements listed in R.S.
20 42:1191 are satisfied.

21 (2) The ethics administrator shall consider the request, and, if the facts stated
22 in the request demonstrate that the requirements listed in R.S. 42:1191 are satisfied,
23 the ethics administrator shall grant the request and order expungement of the ethics
24 enforcement records relative to the complaint that is the subject of the request.

25 B.(1) If the ethics administrator denies the request or fails to grant the
26 request within thirty days after filing, the requestor may file a written request for
27 expungement with the Board of Ethics.

28 (2) The Board of Ethics shall consider the request in executive session, and,
29 if the facts stated in the request demonstrate that the requirements listed in R.S.

1 42:1191 are satisfied, the board shall grant the request and order expungement of the
 2 ethics enforcement records relative to the complaint that is the subject of the request.

3 C. If an order of expungement involves records of the Ethics Adjudicatory
 4 Board, the Board of Ethics or the ethics administrator, as the case may be, shall
 5 ensure that the order of expungement is served on the Ethics Adjudicatory Board as
 6 soon as practicable after issuance.

7 §1193. Effect of expungement

8 A. The Board of Ethics and the Ethics Adjudicatory Board shall remove
 9 from public access all ethics enforcement records that are ordered to be expunged.
 10 The records shall not be destroyed.

11 B. An expunged ethics enforcement record shall be privileged, confidential,
 12 no longer be considered a public record, and not be made available to any person or
 13 other entity, except that any such record shall be available to each member of the
 14 Board of Ethics and the Ethics Adjudicatory Board and to their respective staff
 15 members.

16 §1194. Confidentiality

17 All records and deliberations concerning a request for expungement shall be
 18 confidential and shall not be made available to any person or other entity, except that
 19 any such record shall be available to each member of the Board of Ethics and its
 20 staff.

21 Section 2. R.S. 44:4.1(B)(28) is hereby amended and reenacted and R.S. 44:3.4 is
 22 hereby enacted to read as follows:

23 §3.4. Records of the Board of Ethics

24 Nothing in this Chapter shall be construed to require the disclosure of
 25 records, or the information contained therein, held by the Board of Ethics pertaining
 26 to enforcement proceedings. However, any such record shall be public record and
 27 subject to the provisions of this Chapter when introduced as evidence before the

1 Ethics Adjudicatory Board or a court or when the enforcement proceedings are
2 concluded, subject to the limitations in R.S. 42:1141.4.

3 * * *

4 §4.1. Exceptions

5 * * *

6 B. The legislature further recognizes that there exist exceptions, exemptions,
7 and limitations to the laws pertaining to public records throughout the revised
8 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
9 limitations are hereby continued in effect by incorporation into this Chapter by
10 citation:

11 * * *

12 (28) R.S. 42:17, 57, 1111, ~~1141~~ 1141.4, 1158, 1161, 1193, 1194

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____