

Regular Session, 2010

SENATE BILL NO. 310

BY SENATOR KOSTELKA

ETHICS. Provides relative to the Code of Governmental Ethics. (gov sig)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact R.S. 42:1141(C)(4)(a) and (c) and (5) and (E)(10) and 1142(E), relative to enforcement of laws within the jurisdiction of the Board of Ethics; to provide relative to the powers, functions, and duties of the Ethics Adjudicatory Board; to provide relative to appeals of board decisions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 42:1141(C)(4)(a) and (c) and (5) and (E)(10) and 1142(E) are hereby amended and reenacted to read as follows:

§1141. Procedure; adjudicatory board

* * *

C. Investigation and hearing.

* * *

(4)(a) The director of the division of administrative law shall randomly select seven administrative law judges from among those who meet the qualifications to comprise the Ethics Adjudicatory Board. **The last selected judge shall serve as the alternate.** Members of the adjudicatory board shall have not less than two years of

1 experience as an administrative law judge or not less than ten years experience in the
2 practice of law.

3 * * *

4 (c) **Selection. (i)** The members of the Ethics Adjudicatory Board shall be
5 randomly selected at a public meeting of the Board of Ethics, from among the names
6 of all administrative law judges who meet the qualifications. ~~The members of the~~
7 ~~first Ethics Adjudicatory Board shall be selected by August 15, 2008.~~ The initial
8 **current** Ethics Adjudicatory Board shall serve ~~until January 1, 2009~~ **through**
9 **December 31, 2010**. Thereafter, the adjudicatory board members shall be selected
10 ~~annually~~ to **each** serve a ~~one-year~~ **two-year** term from January first through
11 December thirty-first. ~~The adjudicatory board members for the years 2009 and~~
12 ~~beyond shall be randomly selected at~~ **the December** a public meeting held by the
13 Board of Ethics in ~~December of the preceding year~~ **even-numbered years**. There
14 shall be no limitation on the number of times a qualified member may be selected to
15 serve.

16 **(ii) A vacancy on either three-judge panel shall be filled by the alternate**
17 **judge.**

18 **(iii) A vacancy on the Ethics Adjudicatory Board shall be filled for the**
19 **unexpired term at the next public meeting of the Board of Ethics and in the**
20 **same manner as for the original selection. The last selected judge shall serve as**
21 **the alternate.**

22 * * *

23 (5) If the ethics adjudicatory panel determines that a violation has occurred
24 and prescribes authorized penalties or other sanctions, **the public servant or person**
25 **may appeal as set forth in R.S. 42:1142** ~~the Board of Ethics shall, within forty-five~~
26 ~~days of the issuance of the determination by the ethics adjudicatory panel, issue a~~
27 ~~decision adopting the determination of the ethics adjudicatory panel.~~

28 * * *

29 E. Procedure. * * *

1 (10) Any public servant or other person who is aggrieved by any action taken
 2 by a panel **of the Board of Ethics** may request a review of the panel's decision by
 3 the ~~board~~ **full Board of Ethics** within thirty days of the panel's decision. The board
 4 shall determine whether or not to review the panel's action within thirty days of the
 5 request for review.

6 * * *

7 §1142. Appeals

8 * * *

9 E. A decision of the Ethics Adjudicatory Board or a panel thereof **is a final**
 10 **decision that** may be appealed under this Section ~~in the same manner as a decision~~
 11 ~~of the Board of Ethics~~ **within thirty days after the mailing of the notice of the**
 12 **decision, or if a rehearing is requested, within thirty days after mailing of the**
 13 **decision on the rehearing.**

14 Section 2. This Act shall become effective upon signature by the governor or, if not
 15 signed by the governor, upon expiration of the time for bills to become law without signature
 16 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 17 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 18 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

Present law provides that the director of the division of administrative law is to randomly select seven administrative law judges from among those who meet the qualifications to comprise the Ethics Adjudicatory Board. Present law provides that members of the adjudicatory board must have at least two years of experience as an administrative law judge or not less than ten years experience in the practice of law.

Proposed law retains present law and further provides that the last selected judge will serve as the alternate.

Present law provides that the members of the Ethics Adjudicatory Board are to be randomly selected at a public meeting of the Board of Ethics from among the names of all administrative law judges who meet the qualifications. Present law provides that the initial Ethics Adjudicatory Board will serve until January 1, 2009, and thereafter the adjudicatory board members shall be selected annually to serve a one year term from January 1st through December 31st. Present law provides that the adjudicatory board members for the years 2009 and beyond are to be randomly selected at a public meeting held by the Board of Ethics

in December of the preceding year. Present law provides that there will be no limitation on the number of times a qualified member may be selected to serve.

Proposed law provides that the current Ethics Adjudicatory Board will serve through December 31, 2010, and thereafter the adjudicatory board members will be selected to each serve a two-year term from January first through December thirty-first at the December public meeting held by the Board of Ethics in even-numbered years.

Proposed law further provides that a vacancy on either three-judge panel is to be filled by the alternate judge, and a vacancy on the Ethics Adjudicatory Board is to be filled for the unexpired term at the next public meeting of the Board of Ethics and in the same manner as for the original selection, with the last selected judge serving as the alternate.

Proposed law otherwise retains present law.

Present law provides that if the ethics adjudicatory panel determines that a violation has occurred and prescribes authorized penalties or other sanctions, the Board of Ethics must issue a decision adopting the determination of the ethics adjudicatory panel within 45 days of the issuance of the determination by the ethics adjudicatory panel.

Proposed law deletes the provision of present law requiring the Board of Ethics to adopt the determination of the ethics adjudicatory panel, and further provides that if the ethics adjudicatory panel determines that a violation has occurred and prescribes authorized penalties or other sanctions, the public servant or person may appeal as set forth in present law.

Present law provides that a decision of the Ethics Adjudicatory Board or a panel thereof may be appealed under present law in the same manner as a decision of the Board of Ethics.

Proposed law provides that a decision of the Ethics Adjudicatory Board or a panel thereof is a final decision that may be appealed under present law within 30 days after the mailing of the notice of the decision, or if a rehearing is requested, within 30 days after mailing of the decision on the rehearing.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 42:1141(C)(4)(a) and (c) and (5) and (E)(10) and 1142(E))