

ACT No. 873

Regular Session, 2004

HOUSE BILL NO. 1351

BY REPRESENTATIVE TOWNSEND

1 AN ACT

2 To amend and reenact R.S. 13:3667.1, 3667.3, and 4163, relative to legislators and
3 legislative employees; to provide with respect to court appearances as witnesses
4 during legislative activities; to require certification of service or employment of
5 legislative employees; to eliminate witness exemptions for certain criminal felony
6 trials; to require a hearing to compel the appearance of a legislator as a witness; to
7 provide for appeal of an order compelling appearance as witness; to provide for
8 continuances and extensions during performance of legislative duties; to provide for
9 appeals of orders relating thereto; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 13:3667.1, 3667.3, and 4163 are hereby amended and reenacted to
12 read as follows:

13 §3667.1. Legislators, legislative officials, and personnel not required to appear as
14 witness in court

15 A. ~~Legislators~~ Members of the legislature, the clerk of the House of
16 Representatives, the secretary of the Senate, and employees of the House of
17 Representatives, the Senate, and the Legislative Bureau, when such persons are
18 serving or employed full-time during a session of the legislature, shall not be
19 compelled to attend any court proceedings as witnesses, except in criminal felony
20 cases, ~~in any case~~ during any session of the legislature or at any time during which
21 such persons are engaged in activities in connection with or ordered by the legislature
22 or any legislative committee or subcommittee ~~thereof~~, or any other committee or
23 commission appointed by the governor or other person authorized by law or
24 legislative resolution to make such appointment, ~~to wit:~~

1 ~~whatsoever type of proceeding and the extension of any type of deadline~~ pertaining
 2 to such case or administrative proceeding ~~during sessions of the legislature and~~
 3 ~~during any of the times in Paragraph (3) of this Subsection and in any of those~~
 4 ~~instances, but only upon the timely filing of record of a motion for continuance or~~
 5 ~~extension in the proper court or with the agency having jurisdiction of such cause.~~

6 (b) ~~In the event the~~ A motion for legislative continuance is or extension filed
 7 pursuant to this Section by ~~an a legislative~~ employee of the House of Representatives,
 8 ~~the Senate, or the Legislative Bureau, the motion for continuance shall be~~
 9 accompanied by an affidavit, verifying such employment or service, executed by the
 10 presiding officer or the clerk or secretary of the respective house.

11 (c) ~~For purposes of this Section, except for criminal trials where the death~~
 12 ~~penalty is sought, a~~ A motion for legislative continuance or extension filed in
 13 accordance with this Section shall be timely if filed within seven five calendar days
 14 of the hearing or proceeding to be continued or within four calendar days of the
 15 committee notice or call for an extraordinary session of the legislature ~~shall be timely~~
 16 ~~filed.~~

17 (d) ~~Any court receiving a motion for legislative continuance shall rule on the~~
 18 ~~motion within seventy-two hours of filing of the motion with the court or the clerk~~
 19 ~~of court.~~

20 (2) ~~Continuances~~ Legislative continuances or extensions granted pursuant to
 21 ~~Paragraph (1) of this Subsection~~ Section shall include any pretrial or post-trial
 22 proceeding provided for by law.

23 (3) ~~Continuances~~ Legislative continuances or extensions granted pursuant to
 24 ~~this Subsection~~ Section shall be granted at any of the following times or instances:

25 (a) During any time between fifteen days prior to the original call to order
 26 and fifteen days following the adjournment sine die of any regular or extraordinary
 27 session of the legislature, ~~whether regular or extraordinary.~~

28 (b) At any time during which such person is engaged in activities in
 29 connection with or ordered by the legislature or any legislative committee or

1 subcommittee appointed by the president of the Senate, the speaker of the House of
2 Representatives, or any other committee or commission appointed by the governor,
3 or other person authorized by law or legislative resolution to make such
4 appointments.

5 (c) At any time during which such person is engaged in any activities in
6 connection with or ordered by any constitutional convention or commission.

7 (d) During any time between fifteen days prior to convening and fifteen days
8 following adjournment sine die of any constitutional convention.

9 B. ~~The time within which such person shall file any brief, pleading or other~~
10 ~~documents whatsoever pertaining to such case shall be extended for the time~~
11 ~~occupied during the times set forth in Subsection (A)(3) of this Section.~~

12 C. The provisions of this Section shall not apply to cases in the Supreme
13 Court of Louisiana, criminal cases where the death penalty is sought, and
14 administrative proceedings authorized by R.S. 49:953.

15 D C. During the ~~period~~ periods prescribed in ~~Subsection~~ Subparagraphs
16 (A)(3)(a), (c), and (d) of this Section, the legislative continuances and extensions
17 ~~of time provided for in Subsections A and B of this Section~~ shall be granted as
18 follows:

19 (1) ~~For~~ for a period of not less than sixty days from the date of adjournment
20 sine die of any regular or extraordinary session of the legislature of any legislative
21 session, regular or extraordinary or any constitutional convention.

22 (2) To any member of the legislature who is a party to any suit or action.

23 E D. ~~Upon~~ Within seventy-two hours of the timely filing of record of a
24 motion for a legislative continuance based upon the grounds set forth herein or
25 extension, the court or agency shall grant the continuance prayed for or extension, ex
26 parte, for a reasonable period of time or for the length of time specified in Subsection
27 C of this Section.

28 F E. Any action taken against a party ~~or any sanction imposed against an~~
29 attorney a person, including any sanction imposed on an attorney, who has timely

1 filed a motion for legislative continuance ~~filed as provided~~ or extension in
 2 accordance with this Section resulting from the failure of ~~the~~ such person or attorney
 3 to appear or comply with an order of court or any deadline ~~regarding submission of~~
 4 ~~pleadings or memorandum~~ shall be considered an absolute nullity ~~or of no effect~~ and
 5 shall be set aside by the court upon the filing of a motion by the party aggrieved
 6 person or attorney ~~against whom the action was taken.~~

7 ~~G F.~~ Any person or attorney who has timely filed a motion for legislative
 8 continuance ~~as provided in this Section and~~ or extension which has not been granted
 9 ~~a legislative continuance~~ within ~~three days~~ seventy-two hours of filing may apply
 10 directly to the Supreme Court of Louisiana for supervisory writs to review the action
 11 of the court ~~with whom~~ where the motion was filed.

12 G. If a timely filed motion for legislative continuance or extension is denied
 13 or if a motion filed pursuant to Subsection E of this Section is denied, such denial
 14 shall be an appealable order.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____