

SENATE BILL NO. 52

BY SENATORS TARVER AND FRED MILLS

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

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AN ACT

To amend and reenact R.S. 49:951(9), 952(A), 954(A), (C), the introductory paragraph of 954(D), and 954(E), 966(K)(2), and 968(E), relative to the Administrative Procedure Act; to make technical corrections beyond the authority of the Louisiana State Law Institute to certain citations in the Administrative Procedure Act as amended by Act 211 of the 2021 Regular Session and Act 663 of the 2022 Regular Session; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 49:951(9), 952(A), 954(A), (C), the introductory paragraph of 954(D), and 954(E), 966(K)(2), and 968(E) are hereby amended and reenacted to read as follows:

§951. Definitions

As used in this Chapter:

* * *

(9) "Rulemaking" means the process employed by an agency for the formulation of a rule. Except where the context clearly provides otherwise, the procedures for adoption of rules and of emergency rules as provided in R.S. 49:961

1 **and 962** shall also apply to adoption, increase, or decrease of fees. The fact that a
 2 statement of policy or an interpretation of a statute is made in the decision of a case
 3 or in an agency decision upon or disposition of a particular matter as applied to a
 4 specific set of facts involved does not render the same a rule within this definition
 5 or constitute specific adoption thereof by the agency so as to be required to be issued
 6 and filed as provided in this Subsection.

7 §952. Construction and effect; judicial cognizance

8 A. Nothing in this Chapter shall be held to diminish the constitutional rights
 9 of any person or to limit or repeal additional requirements imposed by statute or
 10 otherwise recognized by law. Notwithstanding the foregoing, and except as provided
 11 in R.S. 49:954, any and all statutory requirements regarding the adoption or
 12 promulgation of rules other than those contained in R.S. 49:953, 961, **962**, 965, and
 13 966 are hereby superseded by the provisions of this Chapter and are repealed. Except
 14 as otherwise required by law, all requirements or privileges relating to evidence or
 15 procedure shall apply equally to agencies and persons. Every agency is granted all
 16 authority necessary to comply with the requirements of this Chapter through the
 17 issuance of rules or otherwise.

18 * * *

19 §954. Exemptions from provisions of Chapter

20 A. This Chapter shall not be applicable to the Board of Tax Appeals, the
 21 Department of Revenue, with the exception of the Louisiana Tax Commission that
 22 shall continue to be governed by this Chapter in its entirety, unless otherwise
 23 specifically provided by law, and the administrator of the Louisiana Employment
 24 Security Law; however, the provisions of R.S. 49:951~~(2), (4)~~, **(3)**, (5), (6), **(8)**, and
 25 ~~(7)~~, **(9)**, 953, 956, 961, **962**, 965, 966, 969, and 970 shall be applicable to the board,
 26 department, and administrator.

27 * * *

28 C. The provisions of R.S. 49:968, ~~978.2~~, **978.1**, and 979 shall not be
 29 applicable to any rule, regulation, or order of any agency subject to a right of review
 30 under the provisions of R.S. 30:12.

1 D. The provisions of R.S. 49:968, ~~978.2~~, 978.1, and 979 shall not apply to
2 any rule, regulation, or policy and procedure statements issued by or for the
3 Department of Public Safety and Corrections, corrections services, concerning:

4 * * *

5 E. The provisions of R.S. 49:968, ~~978.2~~, 978.1, and 979 shall apply only to
6 the regulations and policies of the Department of Public Safety and Corrections,
7 corrections services, that affect the substantial rights of, or administrative remedies
8 available to, the public or any offender incarcerated in a state correctional facility or
9 local jail facility.

10 * * *

11 §966. Review of agency rules; fees

12 * * *

13 K.

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14 (2) The report required by Paragraph (1) of this Subsection shall also contain
15 a recitation of each petition and submission, if any, received by the agency pursuant
16 to R.S. ~~49:961~~ 49:964 during the previous calendar year and the agency's response
17 to each petition and submission, if any were received.

18 * * *

19 §968. Judicial review of validity or applicability of rules

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21 E. Upon a determination by the court that any statement, guide, requirement,
22 circular, directive, explanation, interpretation, guideline, or similar measure
23 constitutes a rule as defined by R.S. 49:951~~(6)~~ and that such measure has not been
24 properly adopted and promulgated pursuant to this Chapter, the court shall declare
25 the measure invalid and inapplicable. It shall not be necessary that all administrative
26 remedies be exhausted.

27 * * *

28 Section 2. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature
30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____