

2018 Regular Session

HOUSE BILL NO. 189

BY REPRESENTATIVE WRIGHT

ADMINISTRATIVE PROCEDURE: Provides for processes, including agency review and public comment, to identify agency rules that may be contrary to law, outdated, unnecessary, overly complex, or burdensome

1 AN ACT

2 To amend and reenact R.S. 49:953(C) and 968(K) and (L), relative to administrative
3 procedure; to provide for processes to review agency rules; to require agencies to
4 conduct periodic hearings to have public comment on rules; to require agencies to
5 review rules; and to require reports to the appropriate committees of the legislature
6 regarding such comment and review; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 49:953(C) and 968(K) and (L) are hereby amended and reenacted to
9 read as follows:

10 §953. Procedure for adoption of rules; agency rule review

11 * * *

12 C.(1) An interested person may petition an agency requesting the adoption,
13 amendment, or repeal of a rule. Each agency shall prescribe by rule the form for
14 petitions and the procedure for their submission, considerations, and disposition.
15 Within ninety days after submission of a petition, the agency shall either deny the
16 petition in writing, stating reasons for the denial, or shall initiate rule making
17 proceedings in accordance with this Chapter.

18 (2)(a) At least once every two years, each agency which engages in
19 rulemaking shall conduct a public hearing for the purpose of allowing any interested

1 person the opportunity to comment on any rule of the agency which the person
2 believes is contrary to law, outdated, unnecessary, overly complex, or burdensome.
3 The agency shall publish notice of the meeting in the Louisiana Register, give notice
4 of the meeting electronically to the appropriate legislative oversight committees, and
5 shall mail notice of the meeting to all persons who have made timely request of the
6 agency for notice of rule changes, all no later than thirty days prior to the meeting.

7 (b) The notice of the meeting shall contain:

8 (i) The name of the agency.

9 (ii) The purpose of the meeting.

10 (iii) The time and place of the meeting.

11 (iv) The name and contact information of the person within the agency to
12 whom interested persons should direct their views regarding the agency's rules, if in
13 writing, and the deadline for submission of written comments.

14 (c) The agency shall consider fully all written and oral comments and
15 submissions concerning its rules and shall issue a response to comments and
16 submissions describing the principal reasons for and against rule changes suggested
17 in the written or oral comments and submissions. In addition, the agency may
18 prepare a statement explaining the basis and rationale for the rule in question
19 identifying the data and evidence upon which the rule is based. All such statements
20 and responses to comments and submissions shall be furnished to the respective
21 legislative oversight committees in the manner provided by R.S. 49:968(K) and shall
22 be made available to interested persons as soon as possible but no later than one day
23 following their submission to the appropriate legislative oversight committees.

24 (3) Each year, each agency shall review a sufficient number of the rules
25 adopted by the agency so that all of the rules of the agency have been reviewed
26 within a six-year period and shall submit a report to the appropriate legislative
27 oversight committees in the manner provided by R.S. 49:968(K). The report shall
28 include a listing of the rules reviewed by the agency during the previous calendar
29 year, a description of whether each such rule is necessary and consistent with law

1 and the agency's mission, and the agencies proposed action, if any, regarding each
2 such rule; a complete listing of rules reviewed by the agency during the six-year
3 period; and the percentage of the agency's rules that have been reviewed by the
4 agency during the six-year period.

5 * * *

6 §968. Review of agency rules; fees

7 * * *

8 K.(1) Each year, no later than thirty days prior to the beginning of the regular
9 session of the legislature, each agency ~~which has proposed the adoption, amendment,~~
10 ~~or repeal of any rule or the adoption, increase, or decrease of any fee during the~~
11 ~~previous year,~~ shall submit a report to the appropriate committees as provided for in
12 Subsection B of this Section. This report shall contain a statement of the action
13 taken by the agency with respect to adoption, amendment, or repeal of each rule
14 proposed for adoption, amendment, or repeal during the previous year and a report
15 of the action taken by the agency with respect to any proposed fee adoption, increase,
16 or decrease during the previous year.

17 (2) The report required by Paragraph (1) of this Subsection shall also
18 contain:

19 (a) A recitation of each petition and comment or submission received by the
20 agency pursuant to R.S. 49:953(C)(1) and (2) during the previous calendar year and
21 the agency's response to each petition and comment or submission.

22 (b) The report required by R.S. 49:953(C)(3).

23 L. After submission of the report required by Subsection K of this Section to
24 the standing committee, a public hearing may be held by the committee for the
25 purpose of reviewing the report with representatives of the ~~proposing~~ agency.

26 * * *

27 Section 2. The reports required by R.S. 49:968(K) as amended by this Act submitted
28 prior to the 2019 Regular Session of the Legislature shall not be required to contain the
29 information required by R.S. 49:968(K)(2) as amended by this Act, except that each such

1 report shall contain the information regarding each petition received by the agency pursuant
 2 to R.S. 49:953(C)(1) as amended by this Act during the previous calendar year and the
 3 agency's response to each such petition.

4 Section 3. This Act shall become effective on January 1, 2019.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 189 Original

2018 Regular Session

Wright

Abstract: Provides for processes, including agency review and public comment, to identify agency rules that may be contrary to law, outdated, unnecessary, overly complex, or burdensome and to require reports to the appropriate committees of the legislature regarding such comment and review.

Present law (Administrative Procedure Act) provides procedures for the adoption, amendment, and repeal of rules by executive branch agencies and for legislative oversight regarding such rule changes.

Present law (R.S. 49:953(C)) further provides that an interested person may petition an agency requesting rule changes. Requires each agency to prescribe by rule the form for petitions and the procedure for submission, consideration, and disposition. Requires the agency, within 90 days after submission of a petition, to either deny the petition in writing, stating reasons for the denial, or initiate rulemaking proceedings.

Proposed law further requires each agency, at least once every two years, to conduct a public hearing for the purpose of allowing any interested person the opportunity to comment on any rule of the agency which the person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome. Requires the agency to give at least 30 days notice of the meeting by publishing it in the La. Register, sending notice electronically to the appropriate legislative oversight committees, and mailing notice of the meeting to all persons who have made timely request of the agency. Requires the notice to contain (a) the agency's name; (b) the purpose of the meeting; (c) the time and place of the meeting; and (d) the name and contact information of the person within the agency to whom interested persons should direct their views regarding the agency's rules, if in writing, and the deadline for submission of written comments. Requires the agency to consider fully all comments and submissions concerning its rules and to issue a response to comments and submissions describing the principal reasons for and against rule changes suggested in the written or oral comments and submissions. Further allows the agency to prepare a statement explaining the basis and rationale for the rule in question identifying the data and evidence upon which the rule is based. Requires all responses and statements to be furnished to the respective legislative oversight committees in the annual report of rulemaking (see present and proposed law - R.S. 49:968(K) below) and to be made available to interested persons as soon as possible but no later than one day following submission to the appropriate legislative oversight committees.

Proposed law further requires each agency to review a sufficient number of its rules so that all of the rules of the agency have been reviewed within a six-year period and to submit a report to the appropriate legislative oversight committees in the annual report of rulemaking (see present and proposed law - R.S. 49:968(K) below). Requires the review report to include a listing of the rules reviewed by the agency during the previous calendar year, a

description of whether each such rule is necessary and consistent with law and the agency's mission, and the agencies proposed action regarding each such rule; a complete listing of rules reviewed during the six-year period; and the percentage of the agency's rules that have been reviewed during the six-year period.

Present law (R.S. 49:568(K) and (L)) requires each agency which has proposed rule or fee changes during the previous calendar year to submit a report, 30 days prior to the beginning of the regular session, to the appropriate legislative committees containing a statement of the action taken by the agency with respect to those changes. Specifies that the committee may hold a public hearing for the purpose of reviewing the report with representatives of the agency.

Proposed law provides instead that each agency shall submit a report on rulemaking activities during the previous calendar year, no later than 30 days prior to the beginning of the regular session, to the appropriate legislative committees and further provides that such report shall also contain a recitation of each petition and comment or submission received by the agency pursuant present and proposed law (explained above) during the previous calendar year and the agency's response to each petition and comment or submission and shall contain the report of the public comments and agency response relative to the public hearing required by proposed law (explained above).

Proposed law specifies that reports submitted to the appropriate legislative committees prior to the 2019 R.S. do not have to contain the reports of information generated from the comments received during the public hearing required by proposed law or the information from the agency's self-review of its rules required by proposed law, but shall contain each petition for rule changes received pursuant to present law during the previous calendar year and the agency's response to each such petition.

Effective January 1, 2019.

(Amends R.S. 49:953(C) and 968(K) and (L))