SLS 23RS-156

ENGROSSED

2023 Regular Session

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.

ADMINISTRATIVE PROCEDURE. Provides for 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. (gov sig)

1	AN ACT
2	To amend and reenact R.S. 49:951(9), 952(A), 954(A), (C), the introductory paragraph of
3	954(D), and 954(E), 966(K)(2), and 968(E), relative to the Administrative Procedure
4	Act; to make technical corrections beyond the authority of the Louisiana State Law
5	Institute to certain citations in the Administrative Procedure Act as amended by Act
6	211 of the 2021 Regular Session and Act 663 of the 2022 Regular Session; to
7	provide for an effective date; and to provide for related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. R.S. 49:951(9), 952(A), 954(A), (C), the introductory paragraph of
10	954(D), and 954(E), 966(K)(2), and 968(E) are hereby amended and reenacted to read as
11	follows:
12	§951. Definitions
13	As used in this Chapter:
14	* * *
15	(9) "Rulemaking" means the process employed by an agency for the
16	formulation of a rule. Except where the context clearly provides otherwise, the
17	procedures for adoption of rules and of emergency rules as provided in R.S. 49:961

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- 1and 962shall also apply to adoption, increase, or decrease of fees. The fact that a2statement of policy or an interpretation of a statute is made in the decision of a case3or in an agency decision upon or disposition of a particular matter as applied to a4specific set of facts involved does not render the same a rule within this definition5or constitute specific adoption thereof by the agency so as to be required to be issued6and filed as provided in this Subsection.
 - §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 as otherwise required by law, all requirements or privileges relating to evidence or 14 procedure shall apply equally to agencies and persons. Every agency is granted all 15 16 authority necessary to comply with the requirements of this Chapter through the issuance of rules or otherwise. 17

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§954. Exemptions from provisions of Chapter

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

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C. The provisions of R.S. 49:968, 978.2, 978.1, and 979 shall not be
applicable to any rule, regulation, or order of any agency subject to a right of review

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1	under the provisions of R.S. 30:12.
2	D. The provisions of R.S. 49:968, 978.2, 978.1, and 979 shall not apply to
3	any rule, regulation, or policy and procedure statements issued by or for the
4	Department of Public Safety and Corrections, corrections services, concerning:
5	* * *
6	E. The provisions of R.S. 49:968, 978.2, <u>978.1,</u> and 979 shall apply only to
7	the regulations and policies of the Department of Public Safety and Corrections,
8	corrections services, that affect the substantial rights of, or administrative remedies
9	available to, the public or any offender incarcerated in a state correctional facility or
10	local jail facility.
11	* * *
12	§966. Review of agency rules; fees
13	* * *
14	K. * * *
15	(2) The report required by Paragraph (1) of this Subsection shall also contain
16	a recitation of each petition and submission, if any, received by the agency pursuant
17	to R.S. 49:961 49:964 during the previous calendar year and the agency's response
18	to each petition and submission, if any were received.
19	* * *
20	§968. Judicial review of validity or applicability of rules
21	* * *
22	E. Upon a determination by the court that any statement, guide, requirement,
23	circular, directive, explanation, interpretation, guideline, or similar measure
24	constitutes a rule as defined by R.S. 49:951(6) and that such measure has not been
25	properly adopted and promulgated pursuant to this Chapter, the court shall declare
26	the measure invalid and inapplicable. It shall not be necessary that all administrative
27	remedies be exhausted.
28	* * *
29	Section 2. This Act shall become effective upon signature by the governor or, if not

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- 1 signed by the governor, upon expiration of the time for bills to become law without signature
- 2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
- 3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
- 4 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 Brandi Cannon.

	DIGEST	
SB 52 Engrossed	2023 Regular Session	Tarver

<u>Present law</u> provides for the Administrative Procedure Act which establishes procedures for rulemaking and administrative adjudications and was reorganized and recodified by Act 211 of the 2021 Regular Session and Act 663 of the 2022 Regular Session.

<u>Proposed law</u> retains <u>present law</u> but makes 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.

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

(Amends R.S. 49:951(9), 952(A), 954(A), (C), 954(D)(intro para), and 954(E), 966(K)(2), and 968(E))