

Regular Session, 2012

HOUSE BILL NO. 950

BY REPRESENTATIVE TIM BURNS

ETHICS: Provides relative to the enforcement of provisions of law under the jurisdiction of the Board of Ethics

1 AN ACT

2 To amend and reenact R.S. 42:1132(A), (B)(introductory paragraph), (C), and (D),
3 1134(A)(1) and (K), 1135, 1141(A), (B)(1)(a), (C)(1), (2), and (3)(c) and (d), 1151
4 through 1157, to enact R.S. 42:1141(B)(3) and (C)(3)(e) and 1141.2 through 1141.6,
5 and to repeal R.S. 42:1141(C)(4), (5), (6), (7), and (8), (D), (E), and (F), 1141.1, and
6 1157.2, relative to enforcement of the laws under the jurisdiction of the Board of
7 Ethics; to clarify the powers and duties of the Board of Ethics and the Ethics
8 Adjudicatory Board relative to such enforcement; to provide relative to certain time
9 limitations; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 42:1132(A), (B)(introductory paragraph), (C), and (D), 1134(A)(1)
12 and (K), 1135, 1141(A), (B)(1)(a), (C)(1), (2), and (3)(c) and (d), 1151 through 1157 are
13 hereby amended and reenacted and R.S. 42:1141(B)(3) and (C)(3)(e) and 1141.2 through
14 1141.6 are hereby enacted to read as follows:

15 §1132. Board of Ethics

16 A. Board of Ethics established. There is hereby established in the
17 Department of State Civil Service the Board of Ethics to be domiciled in the city of
18 Baton Rouge.

1 §1135. Enforcement of regulation, decision, or order of the ~~board~~ Board of Ethics

2 ~~Any~~ The Board of Ethics shall have the right to enforce any valid regulation,
3 final decision, or final order of the ~~board~~ Board of Ethics or the
4 Ethics Adjudicatory Board in any court of competent jurisdiction in this state by a
5 mandamus or injunction suit brought for that purpose. The district court for the
6 parish wherein the ~~board~~ Board of Ethics is domiciled shall have authority to convert
7 a valid final decision or final order ~~of the board~~ into a court order, upon receipt from
8 the ~~board~~ Board of Ethics of a rule to show cause for that purpose.

9 §1141. ~~Procedure; adjudicatory board~~ Complaints and investigations

10 A. ~~Panels.~~—(1) The ~~board~~ Board of Ethics members ~~shall~~ may sit en banc
11 ~~and or~~ in panels in such order and at such times as the board directs.

12 (2) The ~~board~~ Board of Ethics may authorize the hearing and
13 determination of matters by separate panels, each consisting of not less than three
14 members. Such panels shall sit at the times and places to hear matters assigned as
15 the chairman directs. Such hearings shall be public except those provided for in
16 Subsection C of this Section. Each panel shall be vested with specific subject matter
17 jurisdiction. The ~~board~~ Board of Ethics may determine by rule a procedure to rotate
18 members among different subject matter panels to encourage the participation of
19 each member of the board in, and the knowledge of each member of the board of,
20 matters concerning the different provisions of law under the jurisdiction of the board.

21 (3) Matters shall be heard and determined by the ~~board~~ Board of Ethics or
22 panel of not less than three members, unless a hearing before the board en banc is
23 ordered by a majority of the members of the board. The presence of the three
24 members of the panel shall be required to conduct the business of the panel.

25 (4) Notwithstanding any other provision of this Chapter, the presence of nine
26 members shall be required to conduct the business of the ~~board~~ Board of Ethics
27 sitting en banc.

28 (5) The ~~board~~ Board of Ethics shall promulgate procedural and jurisdictional
29 rules relative to the establishment of the several panels. The rules shall specify

1 procedures wherein the chairman may refer matters to the appropriate panel with
2 proper subject matter jurisdiction.

3 (6) The ~~board~~, Board of Ethics by a majority vote of its membership, may
4 review any opinion, decision, finding, or ruling of any panel.

5 B. ~~Complaints.~~-(1)(a) The ~~board~~ Board of Ethics shall consider any signed
6 sworn complaint from any elector, hereinafter referred to as complainant, concerning
7 a violation of this Chapter which is within its jurisdiction or the regulations or orders
8 issued by the ~~board~~ Board of Ethics, or may, by a two-thirds majority vote of its
9 membership, consider any matter which it has reason to believe may be a violation
10 of this Chapter. Additionally, the board may consider any matter which it has reason
11 to believe may be a violation of any other provision of law within its jurisdiction as
12 provided in this Subsection or as may be otherwise provided by law. A certified
13 copy of the vote; a detailed explanation of the matter, including the specific factual
14 allegations upon which the board based its decision to investigate; and a copy of any
15 complaint received by the board, from which the name of the complainant has been
16 redacted, shall be sent by certified mail to the accused and the complainant within
17 ten days after the vote occurs or after receipt of a signed sworn complaint. The
18 chairman of the ~~board~~ shall Board of Ethics may assign each such matter to the
19 appropriate panel for investigation, in which case the panel shall conduct a private
20 investigation to elicit evidence upon which the panel shall determine whether to
21 recommend to the board that a public hearing be conducted or that a violation has not
22 occurred.

23 * * *

24 (3) Any person who, with knowledge of its falsity, makes a false complaint
25 shall be subject to the penalties set forth in R.S. 42:1153.

26 C. ~~Investigation and hearing.~~-(1) Upon receiving a sworn complaint or
27 voting to consider a matter as provided in Subsection B of this Section, a private
28 investigation shall be conducted to elicit evidence upon which the ~~panel as provided~~
29 ~~in this Section~~ Board of Ethics shall determine whether ~~to recommend to the board~~

1 (d) Determinations as to the suspension of the prescriptive period provided
2 for in Subparagraph (c) of this Paragraph shall be made by the Ethics Adjudicatory
3 Board.

4 ~~(d)~~ (e) The board shall consider offering a consent opinion to each person
5 who is the subject of an investigation.

6 §1141.2. Ethics Adjudicatory Board

7 A. The director of the division of administrative law shall, at a public
8 meeting of the Board of Ethics in December of the year preceding the year in which
9 the terms are to begin, randomly select seven administrative law judges from among
10 those who meet the qualifications to comprise the Ethics Adjudicatory Board. The
11 last selected judge shall serve as the alternate. Members of the adjudicatory board
12 shall have not less than two years of experience as an administrative law judge or not
13 less than ten years experience in the practice of law.

14 B.(1) The members shall each serve a three-year term, which term shall
15 begin on January first. There shall be no limitation on the number of times a
16 qualified member may be selected to serve.

17 (2) A vacancy on either three-judge panel shall be filled by the alternate
18 judge.

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

23 C. Members of the Ethics Adjudicatory Board shall be subject to the same
24 financial disclosure requirements as are provided by law for members of the Board
25 of Ethics. Such members shall also be subject to the same limitations regarding
26 contracting as are applicable to the members of the Board of Ethics as provided by
27 law.

28 D. If an administrative law judge who is a member of the Ethics
29 Adjudicatory Board begins work on a matter prior to the end of his term, he shall not

1 be prohibited from completing work on the matter following the end of his term. He
2 shall be considered a member of the Ethics Adjudicatory Board until such work is
3 complete, and such status shall not affect the selection of members for the Ethics
4 Adjudicatory Board.

5 E. Any member of the Ethics Adjudicatory Board who has a personal interest
6 in or who becomes the subject of a hearing pursuant to this Part shall recuse himself
7 from participation in such hearing.

8 §1141.3. Location of hearings

9 The Board of Ethics, a panel thereof, or the Ethics Adjudicatory Board may
10 conduct any hearing provided in this Chapter in the parish wherein the public servant
11 or person alleged to have violated any provision of law within the jurisdiction of the
12 Board of Ethics resides, or in the parish of the official domicile of any office or
13 employment held by the defendant, or in the parish of domicile of the Board of
14 Ethics or the Ethics Adjudicatory Board.

15 §1141.4. Notice and procedure

16 A.(1) Any public servant or other person who is to be the subject of a public
17 or private hearing and the complainant shall be given written notification of the
18 pending charges and of the time and place such hearing is to be held. Such
19 notification shall not be less than sixty days prior to the date set for the hearing.
20 Upon the request of a public servant or other person charged, the hearing may be
21 held sooner.

22 (2) The Ethics Adjudicatory Board shall give public notice of its hearings
23 that are conducted pursuant to R.S. 42:1141.5.

24 B.(1) For purposes of an investigation or a hearing, the Board of Ethics, any
25 panel thereof, or its staff, or the Ethics Adjudicatory Board may administer oaths and
26 affirmations, subpoena witnesses, compel their attendance, take evidence, and
27 require the production of any records which a board or panel deems relevant or
28 material to the investigation or hearing. Such attendance of witnesses and the
29 production of any such records may be required at any place designated by a board

1 or panel at no cost to the public servant or other person charged as permitted by the
2 rules of the board requiring such attendance or production or the board of the panel
3 requiring such attendance or production.

4 (2) The Board of Ethics and the Ethics Adjudicatory Board shall adopt rules
5 providing for discovery consistent with Chapter 3 of Title III of Book II of the Code
6 of Civil Procedure, to the extent and in the manner appropriate to its proceedings.

7 C. In case of contumacy or refusal to obey a subpoena issued to any public
8 servant or other person, any district court of this state within the jurisdiction of which
9 the inquiry is carried on, or within which said public servant or other person is found,
10 resides, or transacts business, upon application by the Board of Ethics or the Ethics
11 Adjudicatory Board shall have jurisdiction to issue to such public servant or other
12 person an order requiring him to appear before the board or its staff and to produce
13 evidence, if so ordered, or to give testimony touching on the matter under
14 consideration. Any failure to obey such order of the court may be punished by the
15 court as a contempt thereof.

16 D.(1) If any public employee willfully refuses or fails to appear before the
17 Board of Ethics or the Ethics Adjudicatory Board or any court authorized to conduct
18 any hearing or inquiry pertaining to the provisions of this Chapter, or having
19 appeared refuses to testify or answer any question specifically, directly, and narrowly
20 relating to the performance of his official duties on the ground that his testimony or
21 answers would tend to incriminate him, or refuses to accept immunity from
22 prosecution on account of any matter about which he may be asked to testify at any
23 such hearing or inquiry, such action shall be grounds for dismissal or forfeiture of
24 his office or position, and if dismissed, he shall not be eligible thereafter for
25 employment by the governmental entity for a period of five years, unless such
26 reemployment is authorized by a majority vote of the membership of the Board of
27 Ethics.

28 (2) If any elected official willfully refuses or fails to appear before the Board
29 of Ethics or the Ethics Adjudicatory Board or any court authorized to conduct any

1 hearing or inquiry pertaining to the provisions of this Chapter or having appeared
2 refuses to testify or answer any question specifically, directly, and narrowly relating
3 to the performance of his official duties on the ground that his testimony or answers
4 would tend to incriminate him, or refuses to accept immunity from prosecution on
5 account of any matter about which he may be asked to testify at such hearing or
6 inquiry, such action shall be grounds for the imposition of penalties as provided in
7 R.S. 42:1153.

8 E. Any public servant or other person who is the subject of any hearing may
9 have legal counsel, cross-examine witnesses, call witnesses, and present evidence in
10 his own behalf.

11 F. Any public servant or other person who is the subject of any investigation
12 shall be advised of his right to have an attorney present.

13 G. Any witness may be accompanied by counsel at investigations or
14 hearings, which counsel may advise the witness of his rights, subject to reasonable
15 limitations to prevent obstruction of or interference with the orderly conduct of the
16 investigation or hearing. His counsel may also submit proposed questions to be asked
17 for his client.

18 H. Any witness at any investigation or hearing, subject to rules and
19 regulations promulgated by the Board of Ethics or Ethics Adjudicatory Board, shall
20 be entitled to a copy of his testimony when the same becomes important and relevant
21 in a criminal proceeding or subsequent investigation or hearing, provided that the
22 furnishing of such copy will not prejudice the public safety or security.

23 I. In making any official determination of whether any provision of law
24 within the jurisdiction of the Board of Ethics has been violated, the Ethics
25 Adjudicatory Board may only consider testimony given under oath and transcribed
26 verbatim by a reporter.

27 J. Any public servant or other person who is aggrieved by any action taken
28 by a panel of the Board of Ethics may request a review of the panel's decision by the
29 full Board of Ethics within thirty days of the panel's decision. The Board of Ethics

1 shall determine whether or not to review the panel's action within thirty days of the
2 request for review.

3 K. The records of the Board of Ethics prepared or obtained in connection
4 with investigations and private hearings conducted by the Board of Ethics, including
5 all extracts of minutes and votes to take any matter under consideration in connection
6 therewith, shall be deemed confidential and privileged, except that such records shall
7 be available to each member of the Board of Ethics upon request. Except as provided
8 in this Section and in R.S. 42:1111(E)(2)(c), all records, including the results and
9 conclusions reached in connection with any investigation or hearing, shall be public.

10 L.(1) It shall be a misdemeanor, punishable by a fine of not more than two
11 thousand dollars or imprisonment for not more than one year, or both, for any
12 member of the Board of Ethics, its executive secretary, other employee, or any other
13 person, to make public the testimony taken at a private investigation or private
14 hearing of the Board of Ethics or to make any public statement or give out any
15 information concerning a private investigation or private hearing of the Board of
16 Ethics without the written request of the public servant or other person investigated.

17 (2) Upon receipt of a written request by the public servant or person charged,
18 the Board of Ethics shall furnish the requestor with a certified copy of the entire
19 proceedings of a private hearing, including a verbatim transcript of all testimony
20 considered at such hearing, and make public the findings of any private investigation
21 or hearing in connection with the charges.

22 M. The provisions of the Open Meetings Law shall not apply to
23 investigations and private hearings conducted by the Board of Ethics.

24 §1141.5. Adjudicatory hearings

25 A. The Ethics Adjudicatory Board shall sit in rotating panels composed of
26 three administrative law judges randomly selected from among the members of the
27 Ethics Adjudicatory Board. The panel shall select the administrative law judge who
28 will preside over the hearing. The determination of the majority of the panel in a
29 particular case shall be the determination of the Ethics Adjudicatory Board. After the

1 hearing, the presiding administrative law judge shall assign authorship responsibility
2 for the determination.

3 B. After the hearing, the ethics adjudicatory panel shall determine whether
4 a violation of any provision of law within the jurisdiction of the Board of Ethics has
5 occurred. If the ethics adjudicatory panel determines that a violation has occurred,
6 it shall determine what authorized penalties or other sanctions, if any, should be
7 imposed and shall issue a final decision.

8 C. If the public hearing of the ethics adjudicatory panel fails to disclose clear
9 and convincing evidence to support the charges, the ethics adjudicatory panel shall
10 make an official determination of its findings, and shall issue a final decision. The
11 person charged and the complainant shall be notified in writing within ten days of
12 the ethics adjudicatory panel's rendition of a final decision. The person charged may
13 require the ethics adjudicatory panel to make an official determination of the validity
14 of the charges against him.

15 D. If the ethics adjudicatory panel determines that a violation has occurred
16 and prescribes authorized penalties or other sanctions, the public servant or person
17 may appeal as set forth in R.S. 42:1142.

18 §1141.6 Declaratory opinions

19 A. Upon application of a public servant, other person, or agency, the Board
20 of Ethics may declare rights, status, and other legal relations established by the
21 provisions of this Chapter or by any other law within its jurisdiction or under
22 opinions issued by the board, either before or after there has been a breach thereof.
23 The applicant may seek to have the Board of Ethics determine any question of
24 construction or validity arising under the provisions of this Chapter or by any other
25 law within its jurisdiction.

26 B. The Board of Ethics' power to declare rights, status, or legal relations
27 established by the provisions of this Chapter or by any other law within its
28 jurisdiction or under opinions issued by the board, or the construction of said laws

1 or opinions, is not limited or restricted to any proceeding where a declaratory opinion
2 is sought in order to terminate a controversy or remove an uncertainty.

3 C. The purpose of a declaratory opinion is to settle and afford relief from
4 uncertainty and insecurity with respect to rights, status, and other legal relations
5 established by the provisions of this Chapter or by any other law within the Board
6 of Ethics' jurisdiction or under opinions issued by the board, or the construction of
7 said laws and opinions.

8 D. A declaratory opinion is a final decision of the Board of Ethics. The
9 decision of the board on an application for a declaratory opinion shall be rendered
10 after a public hearing and only after the requesting party, all other interested parties,
11 and the board's staff have been afforded full and complete opportunity to present
12 evidence, testimony, and argument. A declaratory opinion of the board shall be
13 considered a final decision and shall be reviewable by the Court of Appeal, First
14 Circuit, pursuant to R.S. 42:1142.

15 E. The Board of Ethics may refuse to render a declaratory opinion where
16 such opinion, if rendered, would not terminate the uncertainty or controversy giving
17 rise to the proceeding.

18 F. When a declaratory opinion is sought, the public servant, other person, or
19 agency, as necessary and appropriate for the rendition of a declaratory opinion, who
20 has or claims any interest which would be affected by the opinion shall be made a
21 respondent and given notice of the request and of all public hearings conducted
22 pursuant to the request.

23 G. The procedures for seeking a declaratory opinion and for the public
24 hearing on such request shall be provided by rule adopted by the Board of Ethics
25 pursuant to the Administrative Procedure Act.

26 * * *

27 §1151. Administrative enforcement

28 A. Enforcement as to current public employees. An agency head and any
29 other public servant having the authority to appoint a person to a position of public

1 service, regardless of whether or not such appointment requires the approval of the
2 Senate or any other body, employee, or person, shall take such action as may be
3 ordered by ~~the board or panel~~ a final decision of the Ethics Adjudicatory Board with
4 respect to any public employee within his agency or any such appointee, upon a
5 ~~finding by the board or panel~~ determination that such employee or appointee has
6 violated any provision of law within the jurisdiction of the ~~board~~ Board of Ethics or
7 any order, rule, or regulation promulgated thereunder. Such action may include the
8 imposition of the conditions described in Subsection B of this Section.

9 B. Enforcement as to former public servants and other persons. Upon a
10 ~~finding determination~~ by the ~~board or panel~~ Ethics Adjudicatory Board or a court
11 of competent jurisdiction, that a former public servant or other person has violated
12 any provision of law within the jurisdiction of the ~~board~~ Board of Ethics or any
13 order, rule, or regulation promulgated hereunder, the agency head or the ~~board or~~
14 ~~panel~~ Ethics Adjudicatory Board shall bar or impose reasonable conditions upon:

15 (1) The appearance before such agency of such former public servant or
16 other person.

17 (2) The conduct of, or negotiation or competition for, business with such
18 agency by such former public servant or other person, for such period of time as may
19 be necessary or appropriate to effectuate the purposes of this Chapter.

20 §1152. Rescission of action of a governmental entity

21 A. Subject to the limitations ~~hereinafter~~ set forth in this Section, the ~~board~~
22 ~~or panel~~ Ethics Adjudicatory Board may cancel or rescind any contract of or permit
23 or license issued by a governmental entity without liability to the governmental
24 entity when:

25 (1) The ~~board or panel~~ Ethics Adjudicatory Board has found that a violation
26 of law within the jurisdiction of the ~~board~~ Board of Ethics has influenced the issuing
27 of the permit or license or the making of such contract.

28 (2) The ~~board or panel~~ Ethics Adjudicatory Board finds under all of the
29 circumstances that the interests of the governmental entity so require; however, such

1 rescission is to be limited so as to not adversely affect the interests of innocent third
2 parties.

3 B. The ~~finding~~ determination referred to in Subsection A of this Section shall
4 be made in accordance with the procedures set forth in ~~R.S. 42:1141~~ this Part and
5 shall be subject to judicial review in accordance with the provisions of R.S. 42:1142,
6 provided that the ~~board or panel~~ Ethics Adjudicatory Board may suspend the
7 contract, permit, or license of the governmental entity subject to the limitations in
8 Paragraph A(2) of this Section pending the determination of the merits of the
9 controversy.

10 §1153. Penalties

11 A. Upon ~~finding~~ a determination that any elected official or other person has
12 violated any provision of any law within the jurisdiction of the ~~board~~ Board of Ethics
13 except violations of the Campaign Finance Disclosure Act which shall be governed
14 by Chapter 11 of Title 18 of the Louisiana Revised Statutes of 1950, the ~~board~~ by a
15 ~~majority vote of the membership,~~ Ethics Adjudicatory Board may censure the elected
16 official or person, or impose a fine of not more than ten thousand dollars, or both.

17 B. Upon ~~finding~~ a determination that any public employee or other person
18 has violated any provision of any law within the jurisdiction of the ~~board~~ Board of
19 Ethics except violations of the Campaign Finance Disclosure Act which shall be
20 governed by Chapter 11 of Title 18 of the Louisiana Revised Statutes of 1950, the
21 ~~board by a majority vote of the membership,~~ Ethics Adjudicatory Board may
22 remove, suspend, or order a reduction in pay, or demotion of the public employee or
23 other person, or impose a fine of not more than ten thousand dollars, or both.

24 §1154. Civil penalties for illegal payments

25 When the results of a ~~board~~ investigation ~~conducted~~ pursuant to ~~R.S. 42:1141~~
26 this Part indicates that a violation of R.S. 42:1117 has occurred, ~~the board and after~~
27 an adjudicatory hearing on the matter, the Ethics Adjudicatory Board may order the
28 payment of a penalty by any person who violates R.S. 42:1117. The penalty shall
29 be limited to an amount not in excess of ten thousand dollars. Any appeal of such

1 ~~order by the board~~ final decision by the Ethics Adjudicatory Board shall be to the
2 Court of Appeal, First Circuit, pursuant to R.S. 42:1142.

3 §1155. Penalties for illegal gain; forfeiture of gifts, payments

4 A. If an investigation conducted pursuant to ~~R.S. 42:1141~~ this Part reveals
5 that any public servant or other person has violated any law within the jurisdiction
6 of the ~~board~~ Board of Ethics to his economic advantage, ~~the board~~ and after an
7 adjudicatory hearing on the matter, the Ethics Adjudicatory Board may order the
8 payment of penalties. Recovery may include, in addition to an amount equal to such
9 economic advantage, penalties not to exceed one half of the amount of the economic
10 advantage. Any appeal of such ~~order~~ final decision by the Ethics Adjudicatory
11 Board shall be to the Court of Appeal, First Circuit, pursuant to R.S. 42:1142.

12 B. The ~~board~~ Ethics Adjudicatory Board is authorized to order the forfeiture
13 of any gifts or payments made in violation of this Chapter.

14 §1156. Finding of possible criminal violation

15 Upon finding at a public hearing that there is probable cause to believe that
16 any public servant or other person has violated any criminal law of this state, the
17 ~~board or panel~~ Board of Ethics, or a panel thereof, or the Ethics Adjudicatory Board
18 shall forward a copy of its findings to the district attorney of the parish in which the
19 violation occurred, for appropriate action. Thereafter, notwithstanding any other
20 provision of this Chapter, such district attorney shall have access to all records of the
21 board relative to such charges.

22 §1157. Late filing fees

23 A.(1)(a) The staff of the ~~board~~ Board of Ethics may ~~automatically~~ assess and
24 issue a final order for the payment of late filing fees, in accordance with rules
25 adopted by the ~~board~~ Board of Ethics, for any failure to timely file any report or
26 statement due under any law under its jurisdiction as provided in R.S. 42:1132(C),
27 R.S. 24:50 et seq., R.S. 49:71 et seq., or R.S. 33:9661 et seq. A final order issued
28 pursuant to this Subparagraph shall be appealable to the Ethics Adjudicatory Board
29 for an adjudicatory hearing conducted in accordance with R.S. 42:1141.5.

1 (b) The Board of Ethics may waive all or any part of late filing fees assessed
2 pursuant to Subparagraph (a) of this Paragraph. Any request for waiver of late filing
3 fees assessed in a final order of the staff of the Board of Ethics shall be to the Board
4 of Ethics, which shall promulgate rules governing the procedure to request a waiver
5 as well as to provide for waiver for "good cause" shown. "Good cause" shall be
6 defined as any action or circumstance which, in the considered judgment of the
7 Board of Ethics, were not within the control of the late filer and which were the
8 direct cause of the late filing or any applicable provision in R.S. 18:1511.5 (B). The
9 final disposition of the Board of Ethics on a request for waiver shall not be
10 appealable to the Ethics Adjudicatory Board.

11 (c) The ~~board~~ Board of Ethics shall promulgate rules to facilitate the carrying
12 out of the provisions of this Chapter regarding order for, ~~and~~ payment of, ~~and~~ waiver
13 of late filing fees. ~~Any appeal of such order for the payment of late fees shall be to~~
14 the board, which shall promulgate rules governing the procedure for appeals of late
15 filing fees.

16 (2) ~~The late filing fees for election campaign finance reports shall be as~~
17 provided in R.S. 18:1505.4.

18 (3) (2) The late filing fees for any lobbyist required to register and file
19 reports under the provisions of R.S. 24:50 et seq., shall be as provided in R.S.
20 24:58(D). The late filing fees for any lobbyist required to register and file reports
21 under the provisions of R.S. 49:71 et seq., shall be as provided in R.S. 49:78(D);
22 however, the late filing fees applicable to a lobbyist for a lobbyist expenditure report
23 filed pursuant to R.S. 24:55(G) or R.S. 49:76(G) which contains all of the
24 information required by Part IV of Chapter 1 of Title 49 of the Louisiana Revised
25 Statutes of 1950 and all of the information required by Part III of Chapter 1 of Title
26 24 of the Louisiana Revised Statutes of 1950 shall be fifty dollars per day. The late
27 filing fees for any lobbyist required to register and file reports under the provisions
28 of R.S. 33:9661 et seq., shall be as provided in R.S. 33:9668(D).

1 ~~(4)(a)(i)~~ (3)(a)(i) The late filing fees for any violation of R.S. 42:1114 shall
2 be as provided in R.S. 42:1124.1(A).

3 (ii) The late penalties for any violation of R.S. 42:1124, 1124.2, 1124.2.1,
4 or 1124.3 shall be as provided in R.S. 42:1124.4.

5 (b) The late filing fees for any violation of R.S. 42:1114.2 shall be as
6 provided in R.S. 42:1114.2(G).

7 ~~(5)~~ (4) Any late filing fees assessed by the ~~board~~ Board of Ethics or ~~the its~~
8 staff ~~of the board~~, for any failure to timely file any report or statement due, shall not
9 exceed the following:

10 (a) If the fee is forty dollars per day, the maximum shall be one thousand
11 dollars.

12 (b) If the fee is fifty dollars per day, the maximum shall be one thousand five
13 hundred dollars.

14 (c) If the fee is sixty dollars per day, the maximum shall be two thousand
15 dollars.

16 (d) If the fee is one hundred dollars per day, the maximum shall be two
17 thousand five hundred dollars.

18 (e) If the fee is two hundred dollars per day, the maximum shall be three
19 thousand dollars.

20 B. The staff of the ~~board~~ Board of Ethics shall mail by certified mail a notice
21 of delinquency within four days after the due date of which the staff knows or has
22 reason to know, for any report or statement due under the laws within its jurisdiction
23 which has not been timely filed.

24 C. All funds collected by the staff of the ~~board~~ Board of Ethics as provided
25 in Subsection A of this Section shall be deposited upon receipt in the state treasury.

26 Section 2. R.S. 42:1141(C)(4), (5), (6), (7), and (8), (D), (E), and (F), 1141.1 and
27 1157.2 are hereby repealed in their entirety.

28 Section 3. 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

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 3 effective on the day following such approval.

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)]

Tim Burns

HB No. 950

Abstract: Provides relative to the enforcement of provisions of law under the jurisdiction of the Board of Ethics.

Present law (Code of Governmental Ethics) provides for the Board of Ethics (BOE) and the Ethics Adjudicatory Board (EAB). Provides for the composition and the powers and duties of each board.

Present law (R.S. 42:1141) provides that the BOE receives complaints, conducts investigations concerning alleged violations of laws within its jurisdiction, and issues charges based on such alleged violations. Provides that the EAB conducts hearings on the charges to determine whether a violation has in fact occurred and, if a violation has occurred, determines what authorized penalties or other sanctions should be imposed. Provides that if the public hearing of the EAB fails to disclose clear and convincing evidence to support the charges, the EAB must make an official determination of its findings, and thereupon the BOE must close its file on the charges.

Proposed law makes technical changes to clarify which powers, functions, and duties are performed by the BOE and the EAB. Proposed law clarifies that BOE may use panels to conduct investigations and hearings concerning alleged violations of laws within its jurisdiction. Proposed law further clarifies that the BOE shall enforce any final decision or final order of the EAB in the same manner as it enforces its own.

Present law provides that any complainant who, with knowledge of its falsity, makes a false non-sworn complaint shall be subject to the penalties set forth in present law (R.S. 42:1153).

Proposed law provides instead that any person who, with knowledge of its falsity, makes a false complaint shall be subject to the penalties set forth in present law (R.S. 42:1153).

Present law provides that if the BOE does not issue charges within one year from the date upon which a sworn complaint is received or, if no sworn complaint was received, within one year from the date the board voted to consider the matter, the matter shall be dismissed.

Proposed law retains present law but specifically provides that the one year period shall be prescriptive and may be suspended by (a) the subject of the investigation or complaint, with intent to delay or impede the investigation, filing any pleading or proceeding in a state or federal court or with the EAB; (b) the subject of the investigation or complaint intentionally providing false, fraudulent, or misleading information related to or in connection with the investigation of the BOE; (c) the subject of the investigation or complaint failing to comply with a subpoena or other request from the BOE for information related to or in connection with the investigation of the BOE. Proposed law provides that determinations as to the suspension of the prescriptive period shall be made by the EAB.

Present law provides for actions of the board or panel may order relative to enforcement of violations of the laws within the jurisdiction of the Board of Ethics and penalties which may be assessed for such violations.

Proposed law retains present law but specifies that the actions may be taken and penalties may be assessed after a determination by the Ethics Adjudicatory Board and makes other technical changes relative thereto.

Present law provides that the staff of the board may assess and issue an order for payment of late filing fees and provides that a person may request a waiver of such fees from the BOE. Proposed law specifies that the staff of the board may assess and issue a final order for payment of late filing fees; provides that the BOE may waive all or part of late filing fees so assessed; and provides that the final disposition of the BOE on a request for waiver shall not be appealable to the EAB. Proposed law provides that an appeal of late fees so assessed shall be made to the EAB.

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

(Amends R.S. 42:1132(A), (B)(introductory paragraph), (C), and (D), 1134(A)(1) and (K), 1135, 1141(A), (B)(1)(a), (C)(1), (2), and (3)(c) and (d), 1151 through 1157; Adds R.S. 42:1141(B)(3) and (C)(3)(e) and 1141.2 through 1141.6; Repeals R.S. 42:1141(C)(4), (5), (6), (7), and (8), (D), (E), and (F), 1141.1, and 1157.2)