

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), and  
4 1151 through 1157, to enact R.S. 42:1141(B)(3) and (C)(3)(e) and (f) and 1141.2  
5 through 1141.6, and to repeal R.S. 42:1141(C)(4), (5), (6), (7), and (8), (D), (E), and  
6 (F), 1141.1, and 1157.2, relative to enforcement of the laws under the jurisdiction of  
7 the Board of Ethics; to clarify the powers and duties of the Board of Ethics and the  
8 Ethics Adjudicatory Board relative to such enforcement; to provide relative to certain  
9 time 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), and 1151 through 1157 are  
13 hereby amended and reenacted and R.S. 42:1141(B)(3) and (C)(3)(e) and (f) and 1141.2  
14 through 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 ~~and~~  
11           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. If a panel consists of three members, the presence of  
17           the three members of the panel shall be required to conduct the business of the panel.  
18           Each panel shall be vested with specific subject matter jurisdiction. The ~~board~~ Board  
19           of Ethics may determine by rule a procedure to rotate members among different  
20           subject matter panels to encourage the participation of each member of the board in,  
21           and the knowledge of each member of the board of, matters concerning the different  
22           provisions of law under the jurisdiction of the board.

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

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



1 investigation shall be conducted to elicit evidence upon which the ~~panel as provided~~  
 2 ~~in this Section~~ Board of Ethics shall determine whether ~~to recommend to the board~~  
 3 ~~that~~ a public hearing should be conducted or that a violation has not occurred. The  
 4 accused and the complainant shall be given written notification of the  
 5 commencement of the investigation not less than ten days prior to the date set for the  
 6 commencement of the investigation. All determinations in this Subsection shall be  
 7 by a majority vote ~~of the panel~~. However, in cases where the panel consists of three  
 8 members, all determinations of such a panel shall require a unanimous vote of the  
 9 members of the panel.

10 (2) After the investigation has been completed, the ~~board~~ Board of Ethics  
 11 shall determine whether a public hearing should be conducted to receive evidence  
 12 and to determine whether any violation of any provision of law within its jurisdiction  
 13 has occurred. If a violation has not occurred, the defendant and the complainant  
 14 shall be notified within ten days of the ruling.

15 (3)

16 \* \* \*

17 (c) If the ~~board~~ Board of Ethics does not issue charges within one year from  
 18 the date upon which a sworn complaint is received or, if no sworn complaint was  
 19 received, within one year from the date the board voted to consider the matter, the  
 20 matter shall be dismissed. The one-year period shall be prescriptive. The  
 21 prescriptive period may be suspended, interrupted, or renounced. The prescriptive  
 22 period shall be suspended by any of the following:

23 (i) The person who is the subject of the investigation or complaint files any  
 24 pleading or proceeding in a state or federal court or with the Ethics Adjudicatory  
 25 Board related to the matter under investigation.

26 (ii) The person who is the subject of the investigation or complaint provides  
 27 false, fraudulent, or misleading information related to or in connection with the  
 28 investigation of the Board of Ethics.

1            (iii) The person who is the subject of the investigation or complaint fails  
2            to comply with a subpoena or other request from the Board of Ethics for information  
3            related to or in connection with the investigation of the Board of Ethics.

4            (d) The person who is the subject of the investigation or complaint may  
5            consent in writing to the suspension of the prescriptive period.

6            (e) Determinations concerning the prescriptive period provided for in  
7            Subparagraph (c) of this Paragraph shall be made by the Ethics Adjudicatory Board.

8            ~~(d) The board~~ (f) The Board of Ethics shall consider offering a consent  
9            opinion to each person who is the subject of an investigation.

10           §1141.2. Ethics Adjudicatory Board

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

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

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

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

27           C. Members of the Ethics Adjudicatory Board shall be subject to the same  
28           financial disclosure requirements as are provided by law for members of the Board  
29           of Ethics. Such members shall also be subject to the same limitations regarding

1 contracting as are applicable to the members of the Board of Ethics as provided by  
2 law.

3 D. If an administrative law judge who is a member of the Ethics  
4 Adjudicatory Board begins work on a matter prior to the end of his term, he shall not  
5 be prohibited from completing work on the matter following the end of his term. He  
6 shall be considered a member of the Ethics Adjudicatory Board until such work is  
7 complete, and such status shall not affect the selection of members for the Ethics  
8 Adjudicatory Board.

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

12 §1141.3. Location of hearings

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

19 §1141.4. Notice and procedure

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

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

28 B.(1) For purposes of an investigation or a hearing, the Board of Ethics, any  
29 panel thereof, or its staff, or the Ethics Adjudicatory Board, or any panel thereof,

1 may administer oaths and affirmations, subpoena witnesses, compel their attendance,  
2 take evidence, and require the production of any records which a board or panel  
3 deems relevant or material to the investigation or hearing. Such attendance of  
4 witnesses and the production of any such records may be required at any place  
5 designated by a board or panel at no cost to the public servant or other person  
6 charged as permitted by the rules of the board requiring such attendance or  
7 production or the board of the panel requiring such attendance or production.

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

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

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

1 reemployment is authorized by a majority vote of the membership of the Board of  
2 Ethics.

3 (2) If any elected official willfully refuses or fails to appear before the Board  
4 of Ethics or the Ethics Adjudicatory Board or any court authorized to conduct any  
5 hearing or inquiry pertaining to the provisions of this Chapter or having appeared  
6 refuses to testify or answer any question specifically, directly, and narrowly relating  
7 to the performance of his official duties on the ground that his testimony or answers  
8 would tend to incriminate him, or refuses to accept immunity from prosecution on  
9 account of any matter about which he may be asked to testify at such hearing or  
10 inquiry, such action shall be grounds for the imposition of penalties as provided in  
11 R.S. 42:1153.

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

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

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

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

27 I. In making any official determination of whether any provision of law  
28 within the jurisdiction of the Board of Ethics has been violated, the Ethics

1 Adjudicatory Board may consider testimony only if it is given under oath and  
2 transcribed verbatim by a reporter.

3 J. Any public servant or other person who is aggrieved by any action taken  
4 by a panel of the Board of Ethics may request a review of the panel's decision by the  
5 full Board of Ethics within thirty days of the panel's decision. The Board of Ethics  
6 shall determine whether or not to review the panel's action within thirty days of the  
7 request for review.

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

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

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

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

1        §1141.5. Adjudicatory hearings

2                A. The Ethics Adjudicatory Board shall sit in rotating panels composed of  
3        three administrative law judges randomly selected from among the members of the  
4        Ethics Adjudicatory Board. The panel shall select the administrative law judge who  
5        will preside over the hearing. The determination of the majority of the panel in a  
6        particular case shall be the determination of the Ethics Adjudicatory Board. After  
7        the hearing, the presiding administrative law judge shall assign authorship  
8        responsibility for the determination.

9                B. After the hearing, the adjudicatory panel shall determine whether a  
10        violation of any provision of law within the jurisdiction of the Board of Ethics has  
11        occurred. If the adjudicatory panel determines that a violation has occurred, it shall  
12        determine what authorized penalties or other sanctions, if any, should be imposed  
13        and shall issue a final decision.

14               C. If the public hearing of the adjudicatory panel fails to disclose clear and  
15        convincing evidence to support the charges, the adjudicatory panel shall make an  
16        official determination of its findings and shall issue a final decision. The person  
17        charged and the complainant shall be notified in writing within ten days of the  
18        adjudicatory panel's rendition of a final decision. The person charged may require  
19        the adjudicatory panel to make an official determination of the validity of the charges  
20        against him.

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

24        §1141.6. Declaratory opinions

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

1 construction or validity arising under the provisions of this Chapter or by any other  
2 law within its jurisdiction.

3 B. The Board of Ethics' power to declare rights, status, or legal relations  
4 established by the provisions of this Chapter or by any other law within its  
5 jurisdiction or under opinions issued by the board, or the construction of said laws  
6 or opinions, is not limited or restricted to any proceeding where a declaratory opinion  
7 is sought in order to terminate a controversy or remove an uncertainty.

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

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

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

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



1 or license issued by a governmental entity without liability to the governmental  
2 entity when:

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

6 (2) The ~~board or panel~~ Ethics Adjudicatory Board finds under all of the  
7 circumstances that the interests of the governmental entity so require; however, such  
8 rescission is to be limited so as to not adversely affect the interests of innocent third  
9 parties.

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

17 §1153. Penalties

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

24 B. Upon ~~finding~~ a determination that any public employee or other person  
25 has violated any provision of any law within the jurisdiction of the ~~board~~ Board of  
26 Ethics except violations of the Campaign Finance Disclosure Act which shall be  
27 governed by Chapter 11 of Title 18 of the Louisiana Revised Statutes of 1950, the  
28 ~~board by a majority vote of the membership,~~ Ethics Adjudicatory Board may

1 remove, suspend, or order a reduction in pay, or demotion of the public employee or  
2 other person, or impose a fine of not more than ten thousand dollars, or both.

3 §1154. Civil penalties for illegal payments

4 When the results of ~~a board~~ an investigation conducted pursuant to ~~R.S.~~  
5 ~~42:1141~~ this Part indicates that a violation of R.S. 42:1117 has occurred, ~~the board~~  
6 and after an adjudicatory hearing on the matter, the Ethics Adjudicatory Board may  
7 order the payment of a penalty by any person who violates R.S. 42:1117. The  
8 penalty shall be limited to an amount not in excess of ten thousand dollars. Any  
9 appeal of such ~~order by the board~~ final decision by the Ethics Adjudicatory Board  
10 shall be to the Court of Appeal, First Circuit, pursuant to R.S. 42:1142.

11 §1155. Penalties for illegal gain; forfeiture of gifts, payments

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

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

22 §1156. Finding of possible criminal violation

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

1 §1157. Late filing fees

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

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

19 (c) ~~The board~~ Board of Ethics shall promulgate rules to facilitate the carrying  
20 out of the provisions of this Chapter regarding order for, ~~and~~ payment of, ~~and~~ waiver  
21 of late filing fees. Any appeal of such order for the payment of late fees shall be to  
22 ~~the board, which shall promulgate rules governing the procedure for appeals of late~~  
23 ~~filing fees.~~

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

26 (3) (2) The late filing fees for any lobbyist required to register and file  
27 reports under the provisions of R.S. 24:50 et seq., shall be as provided in R.S.  
28 24:58(D). The late filing fees for any lobbyist required to register and file reports  
29 under the provisions of R.S. 49:71 et seq., shall be as provided in R.S. 49:78(D);

1           however, the late filing fees applicable to a lobbyist for a lobbyist expenditure report  
2           filed pursuant to R.S. 24:55(G) or R.S. 49:76(G) which contains all of the  
3           information required by Part IV of Chapter 1 of Title 49 of the Louisiana Revised  
4           Statutes of 1950 and all of the information required by Part III of Chapter 1 of Title  
5           24 of the Louisiana Revised Statutes of 1950 shall be fifty dollars per day. The late  
6           filing fees for any lobbyist required to register and file reports under the provisions  
7           of R.S. 33:9661 et seq., shall be as provided in R.S. 33:9668(D).

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

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

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

14                   ~~(5)~~ (4) Any late filing fees assessed by the ~~board~~ Board of Ethics or ~~the its~~  
15           staff ~~of the board~~, for any failure to timely file any report or statement due, shall not  
16           exceed the following:

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

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

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

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

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

27                   B. The staff of the ~~board~~ Board of Ethics shall mail by certified mail a notice  
28           of delinquency within four days after the due date of which the staff knows or has

1 reason to know, for any report or statement due under the laws within its jurisdiction  
2 which has not been timely filed.

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

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

7 Section 3. The provisions of this Act shall have prospective application only and the  
8 provisions of R.S. 42:1141(C)(3)(c) as amended by this Act shall apply only to matters  
9 initiated by sworn complaint received or, if no sworn complaint was received, vote by the  
10 Board of Ethics, on or after the effective date of this Act.

11 Section 4. This Act shall become effective upon signature by the governor or, if not  
12 signed by the governor, upon expiration of the time for bills to become law without signature  
13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
14 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
15 effective on the day following such approval.

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#### 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)]

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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. Provides that the prescriptive period may be suspended, interrupted, or renounced. Provides that the prescriptive period shall be suspended by the following:

- (1) The subject of the investigation or complaint files any pleading or proceeding in a state or federal court or with the EAB related to the matter under investigation.
- (2) The subject of the investigation or complaint provides false, fraudulent, or misleading information related to or in connection with the investigation of the BOE.
- (3) The subject of the investigation or complaint fails 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 the subject of the investigation or complaint may consent in writing to the suspension of the prescriptive period. Provides that determinations concerning 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 BOE 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 EAB 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.

Proposed law provides that it shall have prospective application only and that the provisions of R.S. 42:1141(C)(3)(c) as amended by proposed law shall apply only to matters initiated by sworn complaint received or, if no sworn complaint was received, vote by the Board of Ethics, on or after the effective date of proposed law.

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

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

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill.

1. Specifies that the one-year prescriptive period for the Board of Ethics to issue charges may be suspended, interrupted, or renounced.
2. Provides that the person who is the subject of the investigation or complaint may consent in writing to suspend the prescriptive period.
3. In provisions of proposed law providing that the prescriptive period is suspended upon the filing of an action in court or with the Ethics Adjudicatory Board, removes requirement that such action be filed with intent to delay or impede the investigation and specifies that the action must be related to the matter under investigation.
4. In provisions of proposed law providing that the prescriptive period is suspended upon providing false, fraudulent, or misleading information with the Board of Ethics, removes requirement that provision of such information be intentional.
5. Specifies that all determinations concerning the prescriptive period, not suspensions only, shall be made by the Ethics Adjudicatory Board.
6. Makes various technical changes to present law and proposed law.

House Floor Amendments to the engrossed bill.

1. Specifies that provisions of proposed law shall have prospective application only and that the provisions of R.S. 42:1141(C)(3)(c) as amended by proposed law shall apply only to matters initiated on or after the effective date of proposed law.