

HOUSE SUMMARY OF SENATE AMENDMENTS

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

Synopsis of Senate Amendments

1. Specifies that determinations by a panel of the Board of Ethics are by majority vote unless the panel consists of three members, in which case a unanimous vote of the members of the panel is required.
2. In provisions of proposed law providing that the prescriptive period for the Board of Ethics to issue charges is suspended upon the filing of an action in court or with the Ethics Adjudicatory Board, specifies that the prescriptive period is only suspended if the action has the effect of delaying or impeding the proceeding.
3. Deletes provisions of proposed law providing that the prescriptive period for the Board of Ethics to issue charges is suspended if the person who is the subject of the investigation or complaint provides false, fraudulent, or misleading information related to or in connection with the investigation of the Board of Ethics.
4. Provides that if a person who is the subject of an ethics hearing received an advisory opinion from the Board of Ethics and acted or relied on the advisory opinion, the advisory opinion shall be admissible as evidence at the hearing.
5. In provisions of present law relative to determinations by the Ethics Adjudicatory Board concerning whether an ethics violation has occurred, provides that the adjudicatory board may consider testimony pursuant to the La. Code of Evidence, instead of providing that the adjudicatory board may consider testimony only if it is given under oath and transcribed verbatim by a reporter.
6. In provisions of present law providing criminal penalties for disclosure of information concerning a private ethics investigation or private hearing of the Board of Ethics, allows the person who is subject to the investigation or complaint to disclose such information.
7. Makes technical changes to present law and proposed law.

Digest of Bill as Finally Passed by Senate

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. Provides that all determinations of a panel shall be by a majority vote unless the panel consists of three members, in which case all determinations of the panel require a unanimous vote of the members of the panel.

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 BOE 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 that is related to the matter under investigation and that has the effect of delaying or impeding the proceeding.
- (2) 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 the BOE 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.

Proposed law provides that if a person who is the subject of an ethics hearing received an advisory opinion from the BOE and acted or relied on the advisory opinion, the advisory opinion shall be admissible as evidence at the hearing.

Present law relative to determinations by the EAB concerning whether an ethics violation has occurred, provides that the adjudicatory board may consider testimony only if it is given under oath and transcribed verbatim by a reporter. Proposed law provides instead that the EAB may consider testimony pursuant to the La. Code of Evidence.

Present law provides that the staff of the BOE 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 BOE 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.

Present law provides that it shall be a misdemeanor, punishable by a fine of not more than \$2,000 or imprisonment for not more than one year, or both, for any member of the BOE, its executive secretary, other employee, or any other person, to make public the testimony taken at a private investigation or private hearing of the BOE or to make any public statement or give out any information concerning a private investigation or private hearing of the BOE without the written request of the public servant or other person investigated.

Proposed law provides an exception to present law for the person who is subject to the investigation or complaint.

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)