
DIGEST

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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 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)