
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. 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.