

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 942 by Representative Tim Burns

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

Synopsis of Senate Amendments

1. Regarding appeals by the Board of Ethics and the payment of court costs and attorneys fees if the board does not prevail in the final disposition of its appeal, specifies that those costs are inclusive of all stages of litigation and appeal and provides that the amount of attorney fees shall be determined by the court of appeal and set forth in its judgment.
2. Relative to appeals of disciplinary actions regarding classified employees or tenured higher education employees, provides, if a panel ordered the action, that the appeal be filed with the panel rather than with the board.
3. Changes the word "mailing" to "transmission" relative to sending notices of orders and decisions.

Digest of Bill as Finally Passed by Senate

Present law (R.S. 42:1142) provides relative to appeals of decisions of the Board of Ethics. Provides generally for appeal to the Court of Appeal, First Circuit. Present law authorizes any party aggrieved by an action of the Board of Ethics, or a panel thereof, the right to appeal to the Court of Appeal, First Circuit within 30 days after action taken by the board becomes final and that a final decision of the Ethics Adjudicatory Board may be appealed within 30 days after mailing of the notice of the decision, or if a rehearing is requested, within 30 days after mailing of the decision on rehearing. Present law further provides for appeals to a civil service commission or higher education management board in specific situations involving disciplinary actions taken against certain employees. Provides general procedures. Present law (R.S. 42:1142) further provides that decisions of the adjudicatory board or a panel thereof may be appealed in the same manner as decisions by the Board of Ethics.

Proposed law retains present law except in each instance regarding appeal also makes it applicable to action taken by and final decisions of the Ethics Adjudicatory Board. Further, relative to sending notices of orders and decisions, changes "mailing" to "transmission". Proposed law removes the general language about appeals of decisions of the adjudicatory board or panel thereof being the same as appeals of decisions by the Board of Ethics.

Proposed law further authorizes the Board of Ethics, upon unanimous vote of its members present and voting, to appeal questions of law in a final decision of the Ethics Adjudicatory Board to the First Circuit Court of Appeal within 30 days after the signing and transmission of the notice of a final decision, or final decision on rehearing of the Ethics Adjudicatory Board. Defines "final decision" for this purpose as the decision and order of the adjudicatory panel of the Ethics Adjudicatory Board on the final disposition of the entire matter the Ethics Adjudicatory Board was required to hear. Proposed law further provides that if the Board of Ethics does not prevail in the final disposition of its appeal, the Board of Ethics shall be responsible for the payment of reasonable attorney fees and court costs, inclusive of all stages of litigation and appeal, of the other party. Provides that the amount of attorney fees shall be determined by the court of appeal and set forth in its judgment.

Present law (R.S. 42:1141.1) provides that a declaratory opinion of the board shall be considered a final decision and shall be reviewable by the Court of Appeal, First Circuit, as provided in present law (R.S. 42:1142). Present law provides that any refusal by the Board

of Ethics or any panel thereof to issue a declaratory opinion and any preliminary, procedural, or intermediate action or ruling is subject to the supervisory jurisdiction of the appellate court as provided in the present constitution (Const. Art. V, §10).

Proposed law removes the provision that any refusal by the Board of Ethics or any panel thereof to issue any preliminary, procedural, or intermediate action or ruling is subject to the supervisory jurisdiction of the appellate court and otherwise retains present law.

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

(Amends R.S. 42:1142)