

Existing 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.

Existing law 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 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.

New law makes technical changes to clarify which powers, functions, and duties are performed by the BOE and the EAB. Clarifies that the BOE may use panels to conduct investigations and hearings concerning alleged violations of laws within its jurisdiction. 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. Specifies 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.

Existing law provides that a person who makes certain false complaints is subject to penalties set forth in existing law (R.S. 42:1153). Prior law provided that such penalties only applied to false non-sworn complaints. New law provides instead that such penalties apply to all false complaints.

Existing 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.

New law 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.

New 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.

Existing law provides for actions the BOE or a panel thereof may order relative to enforcement of violations of the laws within the jurisdiction of the BOE and for penalties which may be assessed for such violations. New law specifies that the actions may be taken and penalties assessed after a determination by the EAB that a violation has occurred and makes other technical changes relative thereto.

Existing law authorizes the BOE to issue advisory opinions with respect to provisions of law within its jurisdiction. New 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.

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

Existing 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. New 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. Provides that an appeal of late fees so assessed shall be made to the EAB.

Existing 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.

New law provides an exception to existing law for the person who is subject to the investigation or complaint.

New law provides that it shall have prospective application only and that the provisions of R.S. 42:1141(C)(3)(c) as amended by new 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 June 7, 2012.

Effective upon signature of governor (June 7, 2012).

(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)