

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 136

2021 Regular Session

Fred Mills

KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

ADMINISTRATIVE PROCEDURE. Provides for promulgation of emergency rules in accordance with the Administrative Procedure Act. (8/1/21)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

- 1. Adds authority to adopt emergency rule without notice in order to administer the law relating to the imposition, collection, or administration of taxes when required due to time constraints related to congressional legislative, or judicial actions.
- 2. Makes technical changes.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

DIGEST

SB 136 Reengrossed

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Present law provides for emergency rulemaking by administrative agencies in extraordinary circumstances. Proposed law retains present law, moves emergency rulemaking to a new section of law, and provides new parameters in which an agency may utilize emergency rulemaking.

Proposed law provides that in extraordinary circumstances, an emergency rule may be adopted without notice or a public hearing under the following circumstances.

- (a) To prevent imminent peril to the public health, safety, or welfare.
- (b) To avoid sanctions or penalties from the United States.
- (c) To avoid a budget deficit in the case of the medical assistance program.
- (d) To secure new or enhanced federal funding.
- (e) To effectively administer the law relating to the imposition, collection, or administration of taxes when required due to time constraints related to congressional legislative, or judicial actions.

Proposed law provides that it will not be considered an emergency if the agency is acting in the normal course and scope of fulfilling its mission, if the agency failed to take necessary steps to avoid emergency, to implement an Act of the legislature unless the Act specifically directed the agency to proceed with emergency rulemaking, or to continually republish existing emergency rules.

Proposed law provides that no identical emergency rule shall be adopted by an agency more than two consecutive times unless the agency is operating under a state or federal declaration of disaster, state or federal public health emergency, or ongoing emergency.

Present law provides that within five days of adoption of an emergency rule an agency statement of emergency rulemaking will be submitted to the governor of the state of Louisiana, the attorney general, the speaker of the House of Representatives, the president of the Senate, and the office of the state register. Present law provides that within five days of adoption of an emergency rule the agency will mail a copy of the emergency rule to all

persons who have made timely request of the agency for notice of rule changes. Proposed law retains present law.

Present law provides for the validity of an emergency rule to be determined in an action for declaratory judgment. Proposed law retains present law.

Present law provides that within 60 days of receipt an oversight subcommittee of the legislature may conduct a hearing to review the emergency rule and make a determination of whether such emergency rule meets the criteria for an emergency rule. Present law provides that if the oversight subcommittee finds an emergency rule unacceptable, it will prepare a written report containing a copy of the proposed emergency rule and a summary of the determinations made by the subcommittee and transmit copies to the governor, the agency proposing the emergency rule, and the Louisiana Register no later than four days after the committee makes its determination. Proposed law retains present law.

Present law provides that once an oversight subcommittee issues a written report determining an emergency rule is unacceptable, the agency is prohibited from proposing the same or similar emergency rule within four months, nor more than once during the interim between regular sessions of the legislature. Proposed law retains present law.

Present law provides that within 60 days after adoption of an emergency rule the governor may review such emergency rule and make a determination that the emergency rule is unacceptable. Present law provides that if the governor finds an emergency rule or fee unacceptable, he will prepare a written report and transmit copies to the agency proposing the rule change and the Louisiana Register no later than four days after he makes his determination. Proposed law retains present law.

Present law provides that upon receipt by the agency of a report that the legislative oversight subcommittee or the governor has determined the emergency rule is unacceptable, the emergency rule will be nullified and shall be without effect. Proposed law retains present law.

Present law does not allow the governor to disapprove the action of a legislative oversight subcommittee on an emergency rule. Proposed law retains present law.

Proposed law makes technical changes to correlating statutes in present law.

Effective August 1, 2021.

(Amends R.S. 3:4104(G), R.S. 15:587.1.2(D), R.S. 22:11.1, R.S. 27:220(D), R.S. 29:784(B), R.S. 30:2019(C) and (D)(2)(d), 2019.1(E), and 2022(B)(3), R.S. 32:415.2(D)(1), R.S. 34:851.14.1(B), R.S. 36:254(D)(1)(a)(i), R.S. 40:5.3(E), 962(H), 2008.10(B), and 2136(B), R.S. 49:953(E)(1) and (G)(3)(d), 954(B), and R.S. 56:6.1(B); adds R.S. 49:951(8) and 953.1; repeals R.S. 49:953(B))

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