

## RÉSUMÉ DIGEST

ACT 211 (SB 136)

2021 Regular Session

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Prior law provided for emergency rulemaking by administrative agencies in extraordinary circumstances. New law retains prior law, moves emergency rulemaking to a new section of law, and provides new parameters in which an agency may utilize emergency rulemaking.

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

- (1) To prevent imminent peril to the public health, safety, or welfare.
- (2) To avoid sanctions or penalties from the United States.
- (3) To avoid a budget deficit in the case of the medical assistance program.
- (4) To secure new or enhanced federal funding.
- (5) 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.

New 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 an 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.

New 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.

Prior law provided 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. Prior 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. New law retains prior law.

Prior law provided for the validity of an emergency rule to be determined in an action for declaratory judgment. New law retains prior law.

Prior law provided 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. Prior law provided 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. New law retains prior law.

Prior law provided 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. New law retains prior law.

Prior law provided 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. Prior law provided 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. New law retains prior law.

Prior law provided 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. New law retains prior law.

Prior law does not allow the governor to disapprove the action of a legislative oversight subcommittee on an emergency rule. New law retains prior law.

New law makes technical changes to correlating statutes in prior 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))