

2022 Regular Session

HOUSE BILL NO. 145

BY REPRESENTATIVE EDMONSTON

ADMINISTRATIVE PROCEDURE: Provides relative to rule making procedure

1 AN ACT

2 To amend and reenact R.S. 49:953(A)(1)(c) and (F)(3)(c), 953.1(B)(2)(a), and
3 968(B)(introductory paragraph) and (G) and to repeal R.S. 49:970, relative to the
4 Administrative Procedures Act; to require notification of legislators during the
5 procedure for adoption of rules; to remove gubernatorial suspension or veto power
6 with respect to adopted rules; to provide relative to gubernatorial authority during
7 the rule making process; to provide for an effective date; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 49:953(A)(1)(c) and (F)(3)(c), 953.1(B)(2)(a), and
11 968(B)(introductory paragraph) and (G) are hereby amended and reenacted to read as
12 follows:

13 §953. Procedure for adoption of rules; agency rule review

14 A. Prior to the adoption, amendment, or repeal of any rule, the agency shall:

15 (1)

16 * * *

17 (c) Notice of the intent of an agency to adopt, amend, or repeal any rule and
18 the approved fiscal and economic impact statements, as provided for in this
19 Subsection, shall be:

1 *(i)* ~~mailed~~ Mailed to all persons who have made timely request of the agency
 2 for such notice, which notice and statements shall be mailed at the earliest possible
 3 date, and in no case later than ten days after the date when the proposed rule change
 4 is submitted to the Louisiana Register.

5 (ii) Transmitted to each member of the legislature via electronic mail no later
 6 than ten days after the date the proposed rule change is submitted to the Louisiana
 7 Register.

8 * * *

9 F.

10 * * *

11 (3)

12 * * *

13 (c) Notice of the intent of the department to adopt the rule shall be:

14 *(i)* ~~mailed~~ Mailed to all persons who have made timely request for such
 15 notice, which notice shall be mailed at the earliest possible date, and in no case later
 16 than ten days after the date when the proposed rule is submitted to the Louisiana
 17 Register.

18 (ii) Transmitted to each member of the legislature via electronic mail no later
 19 than ten days after the date the proposed rule change is submitted to the Louisiana
 20 Register.

21 * * *

22 §953.1. Emergency rulemaking

23 * * *

24 B.

25 * * *

26 (2)(a) The notice required in Paragraph (1) of this Subsection shall be
 27 transmitted to the governor of the state of Louisiana, the attorney general, the
 28 speaker of the House of Representatives, the president of the Senate, each member

1 of the legislature via electronic mail, and the office of the state register in accordance
2 with each entity's transmittal policy.

3 * * *

4 §968. Review of agency rules; fees

5 * * *

6 B. Prior to the adoption, amendment, or repeal of any rule or the adoption,
7 increase, or decrease of any fee, the agency shall submit a report relative to such
8 proposed rule change or fee adoption, increase, or decrease to the appropriate
9 standing committees of the legislature, each member of the legislature via electronic
10 mail, and the presiding officers of the respective houses as provided in this Section.

11 The report shall be so submitted on the same day the notice of the intended action is
12 submitted to the Louisiana Register for publication in accordance with R.S.
13 49:953(A)(1). The report shall be submitted to each standing committee
14 electronically if electronic means are available. If no electronic means are available,
15 the report shall be submitted to the committee's office in the state capitol by certified
16 mail with return receipt requested or by messenger who shall provide a receipt for
17 signature. The electronic receipt by the committee, return receipt or the messenger's
18 receipt shall be proof of receipt of the report by the committee.

19 * * *

20 G.(1) After receipt of the report of the subcommittee, the governor shall have
21 ten calendar days in which to disapprove the action taken by the subcommittee
22 except as provided by Paragraph (2) of this Subsection. If the action of the
23 subcommittee is not disapproved by the governor within ten calendar days from the
24 day the subcommittee report is delivered to him, the rule change shall not be adopted
25 by the agency until it has been changed or modified and subsequently found
26 acceptable by the subcommittee, or has been approved by the standing committee,
27 or by the legislature by concurrent resolution. If a proposed rule change is
28 determined to be unacceptable by an oversight committee and such determination is
29 not disapproved by the governor as provided in this Section, the agency shall not

1 propose a rule change or emergency rule that is the same or substantially similar to
 2 such disapproved proposed rule change nor shall the agency adopt an emergency rule
 3 that is the same or substantially similar to such disapproved proposed rule change
 4 within four months after issuance of a written report by the subcommittee as
 5 provided in Subsection F of this Section nor more than once during the interim
 6 between regular sessions of the legislature.

7 (2) The governor shall have no authority to disapprove any action taken by
 8 the subcommittee when such action is approved by a two-thirds vote of the members
 9 of the subcommittee who are present and voting, provided a quorum is present.

10 * * *

11 Section 2. R.S. 49:970 is hereby repealed in its entirety.

12 Section 3. This Act shall become effective upon signature by the governor or, if not
 13 signed by the governor, upon expiration of the time for bills to become law without signature
 14 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 15 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 16 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 145 Original

2022 Regular Session

Edmonston

Abstract: Provides for notifications and gubernatorial authority with respect to administrative rules.

Present law provides that prior to the adoption, amendment, or repeal of any rule, the agency shall give notice of its intended action. The notice of the intent and the approved fiscal and economic impact statements shall be mailed to all persons who have made timely request of the agency for such notice.

Proposed law retains present law and also requires the notice of intent and the approved fiscal and economic impact statements to be transmitted to each member of the legislature via electronic mail.

Present law provides that no later than five days after the adoption of an emergency rule, the agency shall provide notice in writing of its emergency action along with a copy of the emergency rule. The notice shall be transmitted to the governor, the attorney general, the speaker of the House of Representatives, the president of the Senate, and the office of the state register.

Proposed law retains present law and also requires the notice to be transmitted to each member of the legislature via electronic mail.

Present law provides that the chairman of each standing committee to which reports are submitted shall appoint an oversight subcommittee, which may conduct hearings on all rules that are proposed for adoption, amendment, or repeal and on all proposed fee adoptions, increases, or decreases. The subcommittee shall make a determination in regards to whether the rule change or action on fees is acceptable or unacceptable. If the subcommittee determines that a proposed rule change or proposed fee action is unacceptable, it shall provide a written report to the governor, the agency proposing the rule change, and the Louisiana Register no later than four days after its determination. Proposed law retains present law. Present law further provides that after receipt of the report of the subcommittee, the governor has 10 calendar days in which to disapprove the action taken by the subcommittee. Proposed law retains present law but removes the governor's authority to disapprove any action taken by the subcommittee if such action is approved by a two-thirds vote of the members of the subcommittee who are present and voting, provided a quorum is present.

Present law provides that the governor, by executive order, may suspend or veto any rule or regulation or body of rules or regulations adopted by a state department, agency, board or commission within 30 days of their adoption.

Proposed law repeals present law.

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

(Amends R.S. 49:953(A)(1)(c) and (F)(3)(c), 953.1(B)(2)(a), and 968(B)(intro. para.) and (G); Repeals R.S. 49:970)