

2023 Regular Session

SENATE BILL NO. 52

BY SENATORS TARVER AND FRED MILLS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ADMINISTRATIVE PROCEDURE. Provides for technical corrections beyond the authority of the Louisiana State Law Institute to certain citations in the Administrative Procedure Act as amended by Act 211 of the 2021 Regular Session and Act 663 of the 2022 Regular Session. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 49:951(9), 952(A), 954(A), (C), the introductory paragraph of  
3 954(D), and 954(E), 966(K)(2), and 968(E), relative to the Administrative Procedure  
4 Act; to make technical corrections beyond the authority of the Louisiana State Law  
5 Institute to certain citations in the Administrative Procedure Act as amended by Act  
6 211 of the 2021 Regular Session and Act 663 of the 2022 Regular Session; to  
7 provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 49:951(9), 952(A), 954(A), (C), the introductory paragraph of  
10 954(D), and 954(E), 966(K)(2), and 968(E) are hereby amended and reenacted to read as  
11 follows:

12 §951. Definitions

13 As used in this Chapter:

14 \* \* \*

15 (9) "Rulemaking" means the process employed by an agency for the  
16 formulation of a rule. Except where the context clearly provides otherwise, the  
17 procedures for adoption of rules and of emergency rules as provided in R.S. 49:961

1           and 962 shall also apply to adoption, increase, or decrease of fees. The fact that a  
 2           statement of policy or an interpretation of a statute is made in the decision of a case  
 3           or in an agency decision upon or disposition of a particular matter as applied to a  
 4           specific set of facts involved does not render the same a rule within this definition  
 5           or constitute specific adoption thereof by the agency so as to be required to be issued  
 6           and filed as provided in this Subsection.

7           §952. Construction and effect; judicial cognizance

8                         A. Nothing in this Chapter shall be held to diminish the constitutional rights  
 9                         of any person or to limit or repeal additional requirements imposed by statute or  
 10                        otherwise recognized by law. Notwithstanding the foregoing, and except as provided  
 11                        in R.S. 49:954, any and all statutory requirements regarding the adoption or  
 12                        promulgation of rules other than those contained in R.S. 49:953, 961, 962, 965, and  
 13                        966 are hereby superseded by the provisions of this Chapter and are repealed. Except  
 14                        as otherwise required by law, all requirements or privileges relating to evidence or  
 15                        procedure shall apply equally to agencies and persons. Every agency is granted all  
 16                        authority necessary to comply with the requirements of this Chapter through the  
 17                        issuance of rules or otherwise.

18   \*           \*           \*

19           §954. Exemptions from provisions of Chapter

20                        A. This Chapter shall not be applicable to the Board of Tax Appeals, the  
 21                        Department of Revenue, with the exception of the Louisiana Tax Commission that  
 22                        shall continue to be governed by this Chapter in its entirety, unless otherwise  
 23                        specifically provided by law, and the administrator of the Louisiana Employment  
 24                        Security Law; however, the provisions of R.S. 49:951~~(2), (4), (3),~~ (5), (6), ~~(8),~~ and  
 25                        ~~(7), (9),~~ 953, 956, 961, 962, 965, 966, 969, and 970 shall be applicable to the board,  
 26                        department, and administrator.

27   \*           \*           \*

28                        C. The provisions of R.S. 49:968, ~~978.2,~~ 978.1, and 979 shall not be  
 29                        applicable to any rule, regulation, or order of any agency subject to a right of review

1 under the provisions of R.S. 30:12.

2 D. The provisions of R.S. 49:968, ~~978.2~~, **978.1**, and 979 shall not apply to  
3 any rule, regulation, or policy and procedure statements issued by or for the  
4 Department of Public Safety and Corrections, corrections services, concerning:

5 \* \* \*

6 E. The provisions of R.S. 49:968, ~~978.2~~, **978.1**, and 979 shall apply only to  
7 the regulations and policies of the Department of Public Safety and Corrections,  
8 corrections services, that affect the substantial rights of, or administrative remedies  
9 available to, the public or any offender incarcerated in a state correctional facility or  
10 local jail facility.

11 \* \* \*

12 §966. Review of agency rules; fees

13 \* \* \*

14 K.

\* \* \*

15 (2) The report required by Paragraph (1) of this Subsection shall also contain  
16 a recitation of each petition and submission, if any, received by the agency pursuant  
17 to R.S. ~~49:961~~ **49:964** during the previous calendar year and the agency's response  
18 to each petition and submission, if any were received.

19 \* \* \*

20 §968. Judicial review of validity or applicability of rules

21 \* \* \*

22 E. Upon a determination by the court that any statement, guide, requirement,  
23 circular, directive, explanation, interpretation, guideline, or similar measure  
24 constitutes a rule as defined by R.S. 49:951(~~6~~) and that such measure has not been  
25 properly adopted and promulgated pursuant to this Chapter, the court shall declare  
26 the measure invalid and inapplicable. It shall not be necessary that all administrative  
27 remedies be exhausted.

28 \* \* \*

29 Section 2. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature  
 2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 3 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 4 effective on the day following such approval.

---

The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Brandi Cannon.

---

DIGEST

SB 52 Original 2023 Regular Session Tarver

Present law provides for the Administrative Procedure Act which establishes procedures for rulemaking and administrative adjudications and was reorganized and recodified by Act 211 of the 2021 Regular Session and Act 663 of the 2022 Regular Session.

Proposed law retains present law but makes technical corrections beyond the authority of the Louisiana State Law Institute to certain citations in the Administrative Procedure Act as amended by Act 211 of the 2021 Regular Session and Act 663 of the 2022 Regular Session.

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

(Amends R.S. 49:951(9), 952(A), 954(A), (C), 954(D)(intro para), and 954(E), 966(K)(2), and 968(E))