

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 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 Engrossed

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))