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## DIGEST

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HB 544 Engrossed

2023 Regular Session

Jordan

**Abstract:** Provides relative to legislative continuances and extensions of time in court proceedings.

Present law provides for ex parte motions for legislative continuances or extension of time for legislators and legislative employees.

Present law (R.S. 13:4163(B)) provides that peremptory grounds for continuance or extension may only be asserted or waived by a member or employee.

Proposed law retains present law and provides that any waiver of privilege shall be express and in writing and shall not be irrevocable.

Present law (R.S. 13:4163(C)) provides that such peremptory grounds as provided in present law shall be available in the following times:

- (1) Any time between 30 days prior to the original call of order and 30 days following adjournment sine die of any session of the legislature.
- (2) Any time between 30 days prior to the convening and 30 days following adjournment sine die of any constitutional convention.
- (3) Any time when the person is engaged in activities connected to or ordered by the legislature, any legislative committee or subcommittee, any committee or convention appointed by the governor or other authorized person, or any constitutional convention or commission.

Proposed law expands present law and provides that the peremptory grounds are available when such person is engaged in activities in connection with the legislator's role as legislator or duty to the constituents for which the legislator is eligible to receive a per diem.

Proposed law provides that the court shall take judicial notice any time the legislature or any legislative committee, task force, special select committee, commission, or subcommittee convenes, and the member or employee is required to attend.

Present law (C.C.P. Art. 1041) provides incidental demands and third party demands are not barred if filed within 90 days of service of the main demand or within 90 days of service of process of the third party demand, respectively.

Proposed law provides that legislative continuances and extensions are not applicable to incidental demands and third party demands that are barred by prescription or peremption under present law.

Present law (R.S. 13:4163(D)(2)) provides that a motion for legislative continuance or extension shall be filed at no cost to the member, employee, or a member or employee's client.

Proposed law retains present law and provides that if a party or attorney opposes a motion for continuance or extension, the court may award attorney fees, court costs, and sanctions against an attorney who opposes a motion for continuance or extension and the opposition is not grounded in fact or in compliance with present law (C.C.P. Art. 863).

Present law (C.C.P. Art. 863) provides that the signature of an attorney or party on a pleading constitutes a certification by the attorney or party that they have read the pleading and to the best of their knowledge, information, and belief formed after reasonable inquiry, the attorney or party certifies all of the following:

- (1) The pleading is not being presented for any improper purpose.
- (2) Each claim, defense, or other legal assertion in the pleading is warranted.
- (3) Each allegation or other factual assertion has evidentiary support or is likely to have evidentiary support.
- (4) Each denial in the pleading is warranted by evidence or reasonably based on a lack of information or belief.

Present law provides that if the court determines that a certification has been made in violation of present law the court shall impose an appropriate sanction.

Present law (R.S. 13:4163(E)(1)) provides if the grounds for a legislative continuance or extension are founded upon the convening of a regular legislative session or constitutional convention, the motion shall be timely if filed no later than five calendar days prior to the hearing to be continued.

Proposed law retains present law and adds organizational sessions. Proposed law also provides that in the case of veto sessions, a motion for legislative continuance or extension is timely if filed during the later of four calendar days prior to the hearing or proceeding to be continued or two days following the knowledge of the convening of a veto session.

Proposed law provides that members or employees give notice at the earliest time practicable prior to for activities in connection with present law (R.S. 13:4163(C)(1)(c)) including activities in connection with or ordered by the legislature, legislative committees or subcommittees, gubernatorial appointments to committees or commissions, or any constitutional convention or commission.

Present law (R.S. 13:4163(G)) provides that actions taken against a person who has filed a motion for legislative continuance or extension and resulting from such person or attorney to appear or

comply with the court shall be an absolute nullity and set aside by the court upon a filing of a motion by the aggrieved person or attorney.

Proposed law retains present law and provides that actions taken against a person who has filed for continuance or extension which resulted from or relates back to a misapplication of proposed law shall be considered an absolute nullity and shall be set aside by the court at no cost to the member, employee, or member or employee's client.

Present law (R.S. 13:4163(H)) provides that any person who has filed a motion for legislative continuance or extension which has been denied or not been granted within 72 hours of filing may apply directly to the supreme court for supervisory writs.

Proposed law retains present law and provides that actions taken against a person who has filed for continuance or extension which resulted from or relates back to a misapplication of proposed law may be appealed to or a supervisory writ may be filed with the supreme court or courts of appeal at no cost to a member, employee, or member or employee's client.

(Amends R.S. 13:4163(B), (C)(1)(c), (D)(2), (E)(1)(a) and (b), (G), and (H)(2); Adds R.S. 13:4163(C)(3) and (4))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Provide for the permissive ordering of attorney fees, court costs, and sanctions and remove the \$1,000 minimum for attorney fees.
2. Provide that any waiver of privilege shall be revocable.
3. Provide that continuances and extensions are not applicable to incidental demands and third party demands barred by prescription or peremption.
4. Provide for the applicability of continuances and extensions to organizational and veto sessions.
5. Remove provision authorizing the timely filing of a continuance or extension prior to a proceeding on a motion for sanctions or penalties brought by opposing counsel for the failure to comply with a legal deadline.
6. Remove permissive applicability of the continuance or extension to cases before the Supreme Court of La.
7. Remove authority to request a judicial recusal for denials of continuance or extensions.

8. Make technical changes.