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 DIGEST

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SB 40 Reengrossed

2023 Regular Session

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Proposed law authorizes the use of motions and exceptions by any party in matters before the Ethics Adjudicatory Board. Provides procedure for the use of a motion for summary judgment.

Proposed law authorizes a motion for summary judgment to be filed by the Board of Ethics or the respondent without leave of the Ethics Adjudicatory Board and without an agreement by any other party to the use of summary judgment procedure, at any time before, during, or after a public hearing on the merits.

Proposed law provides that after a period of adequate discovery, a motion for summary judgment shall be granted if the motion, memorandum, and supporting documents show that there is no genuine issue as to a material fact and that the mover is entitled to judgment as a matter of law.

Proposed law provides that the documents listed in present law Code of Civil Procedure provisions relative to documents, including affidavits, that may be filed in support of or opposition to a motion for summary judgment and additional documents obtained by the Board of Ethics during the course of an investigation may be filed in support of or in opposition to a proposed law motion for summary judgment.

Proposed law provides that the burden of proof is on the mover and further provides the burden is on the adverse party to produce factual support sufficient to establish the existence of a genuine issue of material fact or that the mover is not entitled to judgment as a matter of law.

Proposed law authorizes the Ethics Adjudicatory Board to render summary judgment dispositive of a particular issue or defense in favor of one or more parties even though the granting of the summary judgment does not dispose of the entire matter as to that party or parties. Further provides that the Ethics Adjudicatory Board may render or affirm summary judgment only as to those issues set forth in the motion under consideration by the board at that time.

Proposed law requires the Ethics Adjudicatory Board to transmit notice of the hearing on the motion for summary judgment to the Board of Ethics through the secured electronic file transfer system and to the respondent through his counsel of record, or if no counsel of record, to the respondent, by either email or regular mail to the last known email or mailing address provided by the respondent's counsel of record or respondent to the Ethics Adjudicatory Board.

Proposed law provides that a denial of a motion for summary judgment is an interlocutory judgment and is not appealable pursuant to present law.

(Adds R.S. 42:1141.7 and 1141.8)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill

1. Remove the Board of Ethics' investigative file, all records and documents in the possession of the Board of Ethics, and any other documents that have probative value commonly accepted by reasonably prudent people in the

conduct of their affairs from the list of documents that may be filed in support of or in opposition to the motion for summary judgment.

2. Add certified medical records to the list of documents that may be filed in support of or in opposition to the motion for summary judgment.

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Provide that documents listed in Code of Civil Procedure Art. 966 and documents obtained by the Board of Ethics during the course of an investigation may be filed in support of or in opposition to the motion for summary judgment.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the reengrossed bill:

1. Authorize filing affidavits in support or opposition of the motion shall be in compliance with provisions of present law Code of Civil Procedure.
2. Expressly require the Ethics Adjudicatory Board to send notice of a hearing to the Board of Ethics and the respondent.