
DIGEST

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HB 544 Reengrossed

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(A)) provides that a continuance or extension shall be sought by written motion specifically alleging the peremptory grounds for a continuance or extension of a criminal case, civil case, or administrative proceeding.

Proposed law changes present law to provide that the continuance or extension may be sought by written motion.

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 shall be asserted in open court or filed into the record.

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 duty for which the legislator is eligible to receive a per diem.

Proposed law provides that a court shall take judicial notice any time the legislature or any legislative

committee convenes and the member or employee is required to attend.

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.

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 changes present law to provide that if the grounds for the legislative continuance or extension are founded upon the convening of any legislative session, the motion shall be filed no later than five calendar days prior to the court proceeding to be continued.

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)).

Proposed law (R.S. 13:4163(E)(3)(c)) provides that if a legal deadline or delay has run, a motion for continuance or extension shall be timely if filed within five days prior to the court proceeding on a motion for sanctions or penalties.

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.

Proposed law (R.S. 13:4163(J)) provides that proposed law shall not interrupt prescription.

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

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 preemption.
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.

The House Floor Amendments to the engrossed bill:

1. Provide that a continuance or extension may be sought by written motion.
2. Provide that waivers of a continuance or extension may be asserted in open court or filed into the record.
3. Remove the inapplicability of proposed law to incidental and third party demands barred by prescription or preemption as provided in C.C.P. Art. 1041.
4. Delete language related to sanctions against attorneys under C.C.P. Art. 863.
5. Combine legislative sessions and remove language related to organizational, extraordinary, and veto sessions.

6. Provide that if a legal deadline or delay has run, a motion to continue or extend is timely if filed within five days prior to a court proceeding on a motion for sanctions or penalties.
7. Provide that proposed law does not interrupt prescription.
8. Make technical changes.