

2021 Regular Session

SENATE BILL NO. 136

BY SENATOR FRED MILLS

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

ADMINISTRATIVE PROCEDURE. Provides for promulgation of emergency rules in accordance with the Administrative Procedure Act. (8/1/21)

1 AN ACT
2 To amend and reenact R.S. 3:4104(G), R.S. 15:587.1.2(D), R.S. 22:11.1, R.S. 27:220(D),
3 R.S. 29:784(B), R.S. 30:2019(C) and (D)(2)(d), 2019.1(E), and 2022(B)(3), R.S.
4 32:415.2(D)(1), R.S. 34:851.14.1(B), R.S. 36:254(D)(1)(a)(i), R.S. 40:5.3(E),
5 962(H), 2008.10(B), and 2136(B), R.S. 49:953(E)(1) and (G)(3)(d), 954(B), and R.S.
6 56:6.1(B), to enact R.S. 49:951(8) and 953.1, and to repeal R.S. 49:953(B), relative
7 to emergency rulemaking; to provide for emergency rulemaking in extraordinary
8 circumstances; to provide for criteria that justify an emergency rule; to provide for
9 occurrences that do not satisfy emergency rulemaking; to provide for minimum
10 information in an agency statement for emergency rulemaking; to provide for the
11 effective date, duration, and applicability of an emergency rule; to provide for a
12 maximum number of times an agency can repromulgate an identical emergency rule;
13 to provide for declaratory judgment of the validity of an emergency rule; to provide
14 for legislative oversight of an emergency rule; to provide for gubernatorial oversight
15 of an emergency rule; to provide for notice to the agency if an emergency rule is
16 determined to be unacceptable; to provide for final action on the emergency rule; to
17 provide technical changes to correlating statutes; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 3:4104(G) is hereby amended and reenacted to read as follows:

3 §4104. Production stabilization plans

4 * * *

5 G. Each production stabilization plan adopted pursuant to this section shall
6 be considered a "rule" as that term is defined in R.S. 49:951(6); and the adoption,
7 amendment, and judicial review of such plans shall be in accordance with the
8 provisions of the Administrative Procedure Act (R.S. 49:951 et seq.) relating to rules
9 and rule-making. The revision of any provision of a production stabilization plan
10 shall be accomplished only by the amendment of such plan. Any suspensive action
11 taken by the commissioner pursuant to Subsection F of this section and any action
12 taken by the commissioner pursuant to the third paragraph of Subsection B of this
13 section shall be deemed an "emergency rule" as that term is used in ~~R.S. 49:953(B)~~
14 **R.S. 49:953.1**, but the commissioner shall not be required to find that any such
15 action is required by an imminent peril to the public health, safety, or welfare.

16 * * *

17 Section 2. R.S. 15:587.1.2(D) is hereby amended and reenacted to read as follows:

18 §587.1.2. Provision of information to protect children who receive services at a
19 therapeutic group home

20 * * *

21 D. The Louisiana Department of Health may adopt rules and regulations in
22 accordance with the Administrative Procedure Act to implement the provisions of
23 this Section, including requirements and provisions for utilizing the criminal history
24 information. The department may utilize the process provided in ~~R.S. 49:953(B)~~ **R.S.**
25 **49:953.1** for adoption of the rule.

26 Section 3. R.S. 22:11.1 is hereby amended and reenacted to read as follows:

27 §11.1. Rules and regulations; essential health benefits package

28 The commissioner shall promulgate rules pursuant to the Administrative
29 Procedure Act to define "essential health benefits", to establish annual limitations on

1 cost sharing and deductibles, and to define required levels of coverage. The
 2 commissioner shall adopt initial administrative rules before January 1, 2020.
 3 Notwithstanding any provision of ~~R.S. 49:953(B)~~ **R.S. 49:953.1** to the contrary, the
 4 commissioner may adopt initial administrative rules as required by this Section
 5 pursuant to the provisions of ~~R.S. 49:953(B)~~ **R.S. 49:953.1** without a finding that an
 6 imminent peril to the public health, safety, or welfare exists.

7 Section 4. R.S. 27:220(D) is hereby amended and reenacted to read as follows:

8 §220. Duties of the board; adoption of administrative regulations; rulemaking
 9 authority

10 * * *

11 D. For purposes of expeditious implementation of the provisions of this
 12 Chapter, the promulgation of initial administrative rules shall constitute a matter of
 13 imminent peril to public health, safety, and welfare as provided in ~~R.S. 49:953(B)~~
 14 **R.S. 49:953.1**.

15 Section 5. R.S. 29:784(B) is hereby amended and reenacted to read as follows:

16 §784. Regulation of services during emergency

17 * * *

18 B. An order issued pursuant to Subsection A of this Section may take effect
 19 immediately and shall be promulgated as an emergency rule as provided in ~~R.S.~~
 20 ~~49:953~~ **R.S. 49:953.1**.

21 * * *

22 Section 6. R.S. 30:2019(C) and (D)(2)(d), 2019.1(E), and 2022(B)(3) are hereby
 23 amended and reenacted to read as follows:

24 §2019. Promulgation of rules and regulations

25 * * *

26 C. Except for ~~R.S. 49:953(B)(1)~~ **R.S. 49:953.1**, promulgation of rules or
 27 regulations requiring a permit, license, or compliance schedule of a previously
 28 unregulated industry or practice shall not be initiated prior to a public hearing being
 29 held. Such hearing shall be held in accordance with the Administrative Procedure

1 Act.

2 D. * * *

3 (2) Subparagraph (1)(b) of this Subsection shall not apply to any rule that
4 meets any of the following criteria:

5 * * *

6 (d) Is an emergency rule under ~~R.S. 49:953(B)~~ **R.S. 49:953.1**.

7 * * *

8 §2019.1. Promulgation of rules and regulations affecting agriculture

9 * * *

10 E. Unless an emergency is initially declared by the governor and action is
11 taken as provided for in ~~R.S. 49:953(B)(1)~~ **R.S. 49:953.1**, no rule, regulation, or
12 permit fee may be adopted, amended, or repealed which affects the agriculture
13 industry unless statements from the secretary of the department, the chancellor, and
14 the commissioner of agriculture and forestry accompany the rule, regulation, or
15 permit fee which outline their individual opinions on the issues of whether the rule,
16 regulation, or permit fee is justified, practical, and worthy of implementation, and
17 public hearings have been held in accordance with the Administrative Procedure Act.
18 Such statements from the secretary of the department, the chancellor, and the
19 commissioner of agriculture and forestry shall be provided to the appropriate
20 legislative oversight committee by the respective official. The failure of an official
21 to provide a statement shall constitute support for the rule, regulation, or permit fee.

22 * * *

23 §2022. Permit applications and variance requests; notification

24 * * *

25 B. * * *

26 (3) Applications undergoing technical review shall not be subject to rule
27 changes which occur during the technical review unless such changes are made in
28 accordance with ~~R.S. 49:953(B)(1)~~ **R.S. 49:953.1** or are required by federal law or
29 regulation to be incorporated prior to permit issuance. However, such a rule change

1 made prior to the issuance of the permit may constitute grounds for a modification
2 of the final permit.

3 * * *

4 Section 7. R.S. 32:415.2(D)(1) is hereby amended and reenacted to read as follows:

5 §415.2. Operating vehicle while under suspension or revocation; removal of license
6 plate

7 * * *

8 D.(1) The Department of Public Safety and Corrections, public safety
9 services, shall promulgate rules and regulations for implementation of the provisions
10 of this Section. Once the department has published the notice of intent to adopt the
11 permanent rules in the Louisiana Register, and the period for public comment has
12 expired, the department is authorized to adopt the proposed rule as an emergency
13 rule to expedite the enforcement of this Section subject to legislative oversight as
14 provided in R.S. 49:968, ~~and 953,~~ **and 953.1**.

15 * * *

16 Section 8. R.S. 34:851.14.1(B) is hereby amended and reenacted to read as follows:

17 §851.14.1. Closure of waterways

18 * * *

19 B. Any such closure or restricted use shall be made by an order issued by the
20 secretary in the same manner as issuance of an emergency rule as provided in ~~R.S.~~
21 ~~49:953(B)~~ **R.S. 49:953.1**. Such order shall be subject to oversight by the House
22 Committee on Natural Resources and Environment and the Senate Committee on
23 Natural Resources in accordance with ~~R.S. 49:953(B)~~ **R.S. 49:953.1**. The order
24 authorized in this Section shall specify a closure or a type of restriction, a description
25 of the area subject to the order, and the reason for the emergency action. Upon
26 issuance of any such order, no person shall operate a vessel contrary to the
27 provisions of the order.

28 * * *

29 Section 9. R.S. 36:254(D)(1)(a)(i) is hereby amended and reenacted to read as

1 follows:

2 §254. Powers and duties of the secretary of the Louisiana Department of Health

3 * * *

4 D.(1)(a)(i) The secretary shall direct and be responsible for the Medical
5 Assistance Program, Title XIX of the Social Security Act, including eligibility
6 determination and those health planning and resource development functions as are
7 permissible under provisions of Title XIX of the Social Security Act, Title XXI of
8 the Social Security Act, and R.S. 46:976. Any modification to the Medical
9 Assistance Program approved by waiver by the United States Department of Health
10 and Human Services, Health Care Financing Administration or its successor, that
11 provides for a managed care or voucher system shall be implemented by the
12 secretary but only after the approved plan and any modifications thereto have been
13 approved by the House and Senate committees on health and welfare and the Joint
14 Legislative Committee on the Budget. Unless approved by such committees as
15 provided in this Subparagraph, modifications to the medical assistance program as
16 provided herein shall not be considered avoidance of a budget deficit in the case of
17 medical assistance programs, shall not be considered a means of securing new or
18 enhanced federal funding in medical assistance programs, and shall not be
19 considered necessary to avoid imminent peril to the public health, safety, or welfare;
20 such modification shall not be promulgated as emergency rules under the provisions
21 of ~~R.S. 49:953(B)~~ **R.S. 49:953.1** unless approved by such committees.

22 * * *

23 Section 10. R.S. 40:5.3(E), 962(H), 2008.10(B), and 2136(B) are hereby amended
24 and reenacted to read as follows:

25 §5.3. Molluscan shellfish sanitation requirements; opening and closing of molluscan
26 shellfish growing areas; adoption of guidelines to regulate molluscan
27 shellfish industry; authority to collect samples for bacteriological
28 analysis; testing of oysters; Calcasieu Lake

29 * * *

1 E. The purpose of this Section is to develop guidelines to govern and regulate
 2 the shellfish industry to ensure that the final shellfish product is safe and wholesome.
 3 The Louisiana Department of Health shall enforce the requirements for classification
 4 of shellfish growing areas and for certifying, processing, and distributing shellfish,
 5 which requirements are contained in Louisiana Administrative Code Title 51, Part
 6 IX and promulgated under the provisions of ~~R.S. 49:953(B)~~ **R.S. 49:953.1**.

7 * * *

8 §962. Authority to control

9 * * *

10 H. If the scheduling of a substance in Schedule I is necessary to avoid an
 11 imminent peril to the public health, safety, or welfare, the secretary may adopt an
 12 emergency rule adding the substance to Schedule I pursuant to ~~R.S. 49:953(B)~~ **R.S.**
 13 **49:953.1**. In determining whether the substance poses an imminent peril to the public
 14 health, safety, or welfare, the secretary shall consider the factors set forth in
 15 Paragraphs (C)(4), (5), and (6) of this Section.

16 * * *

17 §2008.10. Therapeutic group homes licensed by the Louisiana Department of
 18 Health; state central registry of child abuse and neglect; criminal
 19 background checks

20 * * *

21 B. The Louisiana Department of Health may adopt rules and regulations in
 22 accordance with the Administrative Procedure Act to implement the provisions of
 23 this Section, including requirements and provisions for utilizing the criminal history
 24 information. The department may utilize the process provided in ~~R.S. 49:953(B)~~ **R.S.**
 25 **49:953.1** for adoption of the rule.

26 * * *

27 §2136. Rules; regulations; minimum standards

28 * * *

29 B. Notwithstanding the provisions of ~~R.S. 49:953(B)(1)~~ **R.S. 49:953.1**, or any

1 other law, rule, or regulation, the licensing agency shall establish rules, regulations,
 2 and minimum standards for the licensing of ambulatory surgical centers as defined
 3 in R.S. 40:2133(A) by adopting emergency rules in accordance with the
 4 Administrative Procedure Act.

* * *

6 Section 11. R.S. 49:953(E)(1) and (G)(3)(d) and 954(B) are hereby amended and
 7 reenacted and R.S. 49:951(8) and 953.1 are hereby enacted to read as follows:

8 §951. Definitions

9 As used in this Chapter:

10 * * *

11 **(8) "Preamble" means a brief explanation of the basis and rationale for**
 12 **the intended administrative rulemaking action including a summary of the**
 13 **information and data supporting the intended action.**

14 * * *

15 §953. Procedure for adoption of rules; agency rule review

16 * * *

17 E.(1) No agency shall adopt, amend, or repeal any rule if the accompanying
 18 fiscal and economic impact statement approved by the Legislative Fiscal Office
 19 indicates that the rule change would result in any increase in the expenditure of state
 20 funds, unless the rule is adopted as an emergency rule pursuant to the requirements
 21 of ~~this Section~~ **R.S. 49:953.1** or unless the legislature has specifically appropriated
 22 the funds necessary for the expenditures associated with the rule change.

23 * * *

24 G.(1)

25 * * *

26 (3) This provision shall not apply in those cases where the policy, standard,
 27 or regulation:

28 * * *

29 (d) Is an emergency rule under ~~Subsection B of this Section~~ **R.S. 49:953.1.**

1 * * *

2 **§953.1. Emergency rulemaking**

3 **A.(1) In extraordinary circumstances an agency may adopt an**
4 **emergency rule as an alternative to the rulemaking provisions provided for in**
5 **R.S. 49:953. An emergency rule may be adopted by an agency without prior**
6 **notice or a public hearing if any of the following provisions apply:**

7 **(a) To prevent imminent peril to the public health, safety, or welfare.**

8 **(b) To avoid sanctions or penalties from the United States.**

9 **(c) To avoid a budget deficit in the case of the medical assistance**
10 **program.**

11 **(d) To secure new or enhanced federal funding.**

12 **(2) It shall not be considered an emergency if the agency is acting in the**
13 **normal course and scope of fulfilling its mission, failed to take necessary steps**
14 **in the administration of the agency to avoid an emergency, is promulgating**
15 **rules to implement an Act of the legislature unless the Act specifically directed**
16 **the agency to proceed with emergency rulemaking, or is perpetually**
17 **republishing existing emergency rules.**

18 **(3) Subject to applicable constitutional or statutory provisions, an**
19 **emergency rule shall become effective on the date of its adoption, or on a date**
20 **specified by the agency to be not more than sixty days from the date of its**
21 **adoption, provided written notice is given as required by Subsection B of this**
22 **Section.**

23 **(4) An emergency rule shall not remain in effect beyond the publication**
24 **date of the Louisiana Register published in the month following the month in**
25 **which the emergency rule is adopted, unless the emergency rule and the reasons**
26 **for adoption are published in that issue. An emergency rule shall not be**
27 **effective for a period longer than one hundred eighty days.**

28 **(5) No emergency rule shall be adopted by an agency more than two**
29 **consecutive times unless the agency is operating under a state or federal**

1 declaration of disaster, a state or federal public health emergency, or an
2 ongoing emergency as authorized by the legislature, governor, or other
3 provision of law. However, the agency may concurrently proceed with the
4 adoption of an identical rule pursuant to the procedure provided for in R.S.
5 49:953(A).

6 B.(1) No later than five days after the adoption of an emergency rule, the
7 agency shall provide notice in writing of its emergency action along with a copy
8 of the emergency rule. The notice shall contain, at a minimum, all of the
9 following:

10 (a) A preamble which states the specific provision or provisions of
11 Paragraph (A)(1) of this Section the agency is citing as cause for emergency
12 rulemaking and the specific facts and detailed reasoning for emergency
13 rulemaking in order to satisfy the criteria for an emergency rule.

14 (b) The name of the person within the agency who has the responsibility
15 for responding to inquiries about the action.

16 (c) A statement that the intended action complies with the statutory law
17 administered by the agency, including a citation of the enabling legislation.

18 (2)(a) The notice required in Paragraph (1) of this Subsection shall be
19 transmitted to the governor of the state of Louisiana, the attorney general of
20 Louisiana, the speaker of the House of Representatives, the president of the
21 Senate, and the Office of the State Register in accordance with each entity's
22 transmittal policy.

23 (b) No later than five days after the adoption of the emergency rule, the
24 agency shall transmit a copy of the notice required in Paragraph (1) of this
25 Subsection to all persons who have made timely request of the agency for notice
26 of rule changes.

27 (3) The Office of the State Register may omit from the Louisiana
28 Register any emergency rule which would be unduly cumbersome, expensive,
29 or otherwise inexpedient to print, if the emergency rule in printed or processed

1 form is made available on application to the adopting agency, and if the
2 Louisiana Register contains a notice stating the general subject matter of the
3 omitted emergency rule, the reasons for the finding of the emergency submitted
4 by the agency, and how a copy may be obtained.

5 C. The validity of an emergency rule may be determined in an action for
6 declaratory judgment in the district court of the parish in which the agency is
7 located. The agency shall be made a party to the action. An action for a
8 declaratory judgment under this Section may be brought only by a person to
9 whom such emergency rule is applicable or who would be adversely affected by
10 such emergency rule and only on the grounds that the emergency rule does not
11 meet the criteria for adoption of an emergency rule as provided in Paragraph
12 (A)(1) of this Section. The court shall declare the emergency rule invalid if it
13 finds that there is not sufficient evidence that such emergency rule must be
14 adopted on an emergency basis for one or more of the reasons for adoption of
15 an emergency rule as provided in Subsection A of this Section. Notwithstanding
16 any provision of law to the contrary, the emergency rule shall remain in effect
17 until such declaratory judgment is rendered. The provisions of R.S. 49:963 shall
18 not apply to any action brought pursuant to this Section. The provisions of this
19 Section are in addition to R.S. 49:963 and shall not limit any action pursuant to
20 R.S. 49:963.

21 D.(1) Within sixty days after receipt of the emergency rule and agency
22 notice required in Subsection B of this Section by the presiding officer of either
23 the House of Representatives or the Senate, an oversight subcommittee of either
24 house may individually or jointly conduct a hearing to review the emergency
25 rule and make a determination of whether the emergency rule meets the criteria
26 for an emergency rule set forth in Subsection A of this Section. The oversight
27 committee shall also make the following determinations:

28 (a) Whether the emergency rule is in conformity with the intent and
29 scope of the enabling legislation purporting to authorize the emergency rule.

1 **(b) Whether the emergency rule is in conformity and not contrary to all**
2 **applicable provisions of law and of the constitution.**

3 **(c) The advisability or relative merit of the emergency rule.**

4 **(d) Whether the emergency rule is acceptable or unacceptable to the**
5 **oversight subcommittee.**

6 **(2)(a) If within sixty days after receipt of the emergency rule and agency**
7 **notice required in Subsection B of this Section either the House or Senate**
8 **oversight committee determines that an emergency rule is unacceptable, the**
9 **respective subcommittee shall provide a written report which contains the**
10 **following:**

11 **(i) A copy of the emergency rule.**

12 **(ii) A summary of the determinations made by the oversight committee.**

13 **(b) The written report shall be delivered to the governor, the agency**
14 **proposing the rule change, and the Louisiana Register no later than four days**
15 **after the oversight committee makes its determination.**

16 **(3) If an emergency rule is determined to be unacceptable by an**
17 **oversight committee, the agency shall not propose a rule change or emergency**
18 **rule that is the same or substantially similar to the disapproved emergency rule**
19 **within four months after issuance of a written report by the subcommittee**
20 **issued pursuant to this Subsection, nor more than once during the interim**
21 **between regular sessions of the legislature.**

22 **E. Within sixty days after adoption of an emergency rule, the governor**
23 **may review such emergency rule and make the determinations as provided in**
24 **Subsection D of this Section. If within this time period the governor finds an**
25 **emergency rule unacceptable, he shall prepare a written report as provided in**
26 **Subsection (D)(2) of this Section and transmit copies to the agency proposing**
27 **the emergency rule and the Louisiana Register no later than four days after the**
28 **governor makes his determination.**

29 **F. Upon receipt by the agency of a report issued by the oversight**

1 committee or the governor finding an emergency rule unacceptable, the
 2 emergency rule shall be nullified and shall be without effect. The governor shall
 3 have no authority to disapprove the action taken on an emergency rule by the
 4 oversight committee.

5 §954. Filing; taking effect of rules

6 * * *

7 B.(1) Each rule hereafter adopted shall be effective upon its publication in the
 8 Louisiana Register, said publication to be subsequent to the act of adoption, except
 9 that:

10 ~~(1)~~ if a later date is required by statute or specified in the rule, the later day
 11 is the effective date.

12 ~~(2) Subject to applicable constitutional or statutory provisions, an emergency~~
 13 ~~rule shall become effective on the date of its adoption, or on a date specified by the~~
 14 ~~agency to be not more than sixty days future from the date of its adoption, provided~~
 15 ~~written notice is given within five days of the date of adoption to the governor of~~
 16 ~~Louisiana, the attorney general of Louisiana, the speaker of the House of~~
 17 ~~Representatives, the president of the Senate, and the Office of the State Register as~~
 18 ~~provided in R.S. 49:953(B). Such emergency rule shall not remain in effect beyond~~
 19 ~~the publication date of the Louisiana Register published in the month following the~~
 20 ~~month in which the emergency rule is adopted, unless such rule and the reasons for~~
 21 ~~adoption thereof are published in that issue; however, any emergency rule so~~
 22 ~~published shall not be effective for a period longer than one hundred twenty days,~~
 23 ~~but the adoption of an identical rule under R.S. 49:953(A)(1), (2), and (3) is not~~
 24 ~~precluded. The agency shall take appropriate measures to make emergency rules~~
 25 ~~known to the persons who may be affected by them. An emergency rule shall be~~
 26 considered effective pursuant to the provisions of R.S. 49:953.1.

27 Section 12. R.S. 56:6.1(B) is hereby amended and reenacted to read as follows:

28 §6.1. Emergency closure of hunting or fishing seasons; rules and regulations;

29 prohibitions; penalties

* * *

B. Any such closure shall be made by an order issued by the secretary in the same manner as the issuance of an emergency rule as provided in ~~R.S. 49:953(B)~~ **R.S. 49:953.1**. The closure order authorized in this Section shall include a description of the area subject to the closure, indication of the species of fish or wildlife covered by such order, and the reasons for the closure. In addition, the order may include restrictions on hunting or fishing times, bag or creel limits, and harvest restrictions and may alter season opening and closing dates. Upon the issuance of any such order, the possession, sale, barter, trade, or exchange of, or the attempt to possess, sell, barter, trade, or exchange, any species of fish or wildlife contrary to the provisions of the order is prohibited.

* * *

Section 13. R.S. 49:953(B) is hereby repealed.

The original instrument was prepared by Christine Arbo Peck. The following digest, which does not constitute a part of the legislative instrument, was prepared by Matt DeVille.

SB 136 Engrossed	DIGEST 2021 Regular Session	Fred Mills
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Present law provides for emergency rulemaking by administrative agencies in extraordinary circumstances. Proposed law retains present law, moves emergency rulemaking to a new section of law, and provides new parameters in which an agency may utilize emergency rulemaking.

Proposed law provides that it will not be considered an emergency if the agency is acting in the normal course and scope of fulfilling its mission, if the agency failed to take necessary steps to avoid emergency, to implement an Act of the legislature unless the Act specifically directed the agency to proceed with emergency rulemaking, or to perpetually republish existing emergency rules.

Proposed law provides that no identical emergency rule shall be adopted by an agency more than two consecutive times unless the agency is operating under a state or federal declaration of disaster, state or federal public health emergency, or ongoing emergency.

Present law provides that within five days of adoption of an emergency rule an agency statement of emergency rulemaking will be submitted to the governor of the state of Louisiana, the attorney general of Louisiana, the speaker of the House of Representatives, the president of the Senate, and the Office of the State Register. Present law provides that within five days of adoption of an emergency rule the agency will mail a copy of the emergency rule to all persons who have made timely request of the agency for notice of rule changes. Proposed law retains present law.

Present law provides for the validity of an emergency rule to be determined in an action for

declaratory judgment. Proposed law retains present law.

Present law provides that within 60 days of receipt an oversight committee of the legislature may conduct a hearing to review the emergency rule and make a determination of whether such emergency rule meets the criteria for an emergency rule. Present law provides that if the oversight subcommittee finds an emergency rule unacceptable, it will prepare a written report containing a copy of the proposed emergency rule and a summary of the determinations made by the committee and transmit copies to the governor, the agency proposing the emergency rule, and the Louisiana Register no later than four days after the committee makes its determination. Proposed law retains present law.

Present law provides that once an oversight committee issues a written report determining an emergency rule is unacceptable, the agency is prohibited from proposing the same or similar emergency rule within four months, nor more than once during the interim between regular sessions of the legislature. Proposed law retains present law.

Present law provides that within 60 days after adoption of an emergency rule the governor may review such emergency rule and make a determination that the emergency rule is unacceptable. Present law provides that if the governor finds an emergency rule or fee unacceptable, he will prepare a written report and transmit copies to the agency proposing the rule change and the Louisiana Register no later than four days after he makes his determination. Proposed law retains present law.

Present law provides that upon receipt by the agency of a report that the legislative oversight committee or the governor has determined the emergency rule is unacceptable, the emergency rule will be nullified and shall be without effect. Proposed law retains present law.

Present law does not allow the governor to disapprove the action of a legislative oversight committee on an emergency rule. Proposed law retains present law.

Proposed law makes technical changes to correlating statutes in present law.

Effective August 1, 2021.

(Amends R.S. 3:4104(G), R.S. 15:587.1.2(D), R.S. 22:11.1, R.S. 27:220(D), R.S. 29:784(B), R.S. 30:2019(C) and (D)(2)(d), 2019.1(E), and 2022(B)(3), R.S. 32:415.2(D)(1), R.S. 34:851.14.1(B), R.S. 36:254(D)(1)(a)(i), R.S. 40:5.3(E), 962(H), 2008.10(B), and 2136(B), R.S. 49:953(E)(1) and (G)(3)(d), 954(B), and R.S. 56:6.1(B); adds R.S. 49:951(8) and 953.1; repeals R.S. 49:953(B))

Summary of Amendments Adopted by Senate

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

1. Makes technical corrections
2. Adds definition of "preamble"
3. Extends effective period for emergency rules
4. Adds ongoing emergency to list of exceptions to the rule regarding adoption of an emergency rule more than twice consecutively.