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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.

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SB 136 Engrossed

DIGEST  
2021 Regular Session

Fred Mills

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.