

2022 Regular Session

HOUSE BILL NO. 644

BY REPRESENTATIVE GREEN

CIVIL/PROCEDURE: Provides relative to legislative continuances or extensions

1 AN ACT

2 To amend and reenact R.S. 13:4163(A)(1), (C)(1), (D)(2), (E)(1)(b), (G), and (H)(2) and to
3 enact R.S. 13:4163(C)(3), relative to civil procedure; to provide for continuances or
4 extension of certain deadlines; to provide relative to legislators or employees
5 engaged in legislative or constitutional convention activities; to provide for
6 legislative activities; to provide for judicial notice; to provide relative to appeals; to
7 provide relative to appeal costs; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 13:4163(A)(1), (C)(1), (D)(2), (E)(1)(b), (G), and (H)(2) are hereby
10 amended and reenacted and R.S. 13:4163(C)(3) is hereby enacted to read as follows:

11 §4163. Ex parte motion for legislative continuance or extension of time; legislators
12 or employees engaged in legislative or constitutional convention activities
13 A.(1) A member of the legislature and a legislative employee shall have
14 peremptory grounds for continuance or extension of a criminal case, civil case, or
15 administrative proceeding as provided below. The continuance or extension ~~shall~~
16 may be sought by written motion specifically alleging these grounds.

17 * * *

18 C.(1) Such peremptory grounds are available for the continuance of any type
19 of proceeding and the extension of any type of deadline or legal delay pertaining to
20 a criminal case, civil case, or administrative proceeding, if the presence,
21 participation, or involvement of a member or employee is required in any capacity,
22 including any pretrial or post-trial legal proceeding, during:

1 (a) Any time between ~~thirty~~ sixty days prior to the original call to order and
2 ~~thirty~~ sixty days following the adjournment sine die of any session of the legislature.

3 (b) Any time between ~~thirty~~ sixty days prior to convening and ~~thirty~~ sixty
4 days following adjournment sine die of any constitutional convention.

5 (c) Any time other than those provided in Subparagraph (a) or (b) of this
6 Paragraph when such person is engaged in activities, including travel, in connection
7 with or ordered by: (i) the legislature; (ii) any legislative committee, caucus,
8 delegation, task force, special select committee, commission, or subcommittee
9 ~~appointed by the president of the Senate or the speaker of the House of~~
10 ~~Representatives;~~ (iii) any committee or commission appointed by the governor or
11 other person authorized to make such appointments; ~~or~~ (iv) any constitutional
12 convention or commission; or (v) the legislator's role as a legislator or duty to
13 constituents.

14 * * *

15 (3) Notwithstanding any law to the contrary, the court shall take judicial
16 notice any time the legislature or any legislative committee, task force, special select
17 committee, commission, or subcommittee convenes, and the member or employee
18 is required to attend.

19 D.

20 * * *

21 (2)(a) A motion for legislative continuance or extension shall be filed at no
22 cost to a member, employee, or a client of a member or employee.

23 (b) If a party or attorney opposes a motion for legislative continuance or
24 extension, upon motion of any party or upon its own motion, the court shall impose
25 attorney fees and court costs upon the party or attorney who opposed a motion for
26 legislative continuance or extension.

1 E.(1)

2 * * *

3 (b)(i) If the grounds for a legislative continuance or extension are founded
4 upon any provision of Subparagraph (C)(1)(c) of this Section or upon the issuance
5 of a call for an extraordinary session of the legislature, the motion for legislative
6 continuance or extension shall be timely if filed no later than five calendar days prior
7 to the hearing or proceeding to be continued or no later than two days following the
8 issuance of the notice of the meeting or of the call for the extraordinary legislative
9 session, which ever occurs last.

10 (ii) If the grounds for legislative continuance or extension are founded upon
11 any provision of Subparagraph (C)(1)(c) of this Section and the member or employee
12 is unable to comply with the notice requirements of this Paragraph, the member or
13 employee shall give notice at the earliest time practicable prior to the hearing or
14 proceeding to be continued.

15 * * *

16 G.(1) Any action taken against a person, including any sanction imposed on
17 an attorney, who has filed a motion for legislative continuance or extension and
18 which results from the failure of such person or attorney to appear or comply with
19 an order of the court or agency or any deadline shall be considered an absolute
20 nullity and shall be set aside by the court or agency upon the filing of a motion by
21 the aggrieved person or attorney.

22 (2) Any action taken against a person who has filed a motion for legislative
23 continuance or extension which resulted from or relates back to a misapplication of
24 this Section shall be considered an absolute nullity and shall be set aside by a court
25 or agency upon the filing of a motion by the aggrieved person or attorney, at no cost
26 to a member, employee, or client of a member or employee.

27 H.(1)

28 * * *

1 (2) If a motion filed pursuant to Subsection G of this Section is denied, such
2 denial ~~shall be an appealable order~~ may be appealed to or a supervisory writ may be
3 filed with the supreme court or courts of appeal. An appeal or application for
4 supervisory writ shall be filed at no cost to a member, employee, or client of a
5 member or employee.

6 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 644 Original 2022 Regular Session Green

Abstract: Provides relative to legislative continuances and extensions of time.

Present law (R.S. 13:4153) provides members of the legislature and legislative employees peremptory grounds for continuance or extension of any criminal case, civil case, or administrative proceeding.

Present law (R.S. 13:4153(A)(1)) provides that a legislative continuance or extension shall be sought by written motion.

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

Present law (R.S. 13:4153(C)(1)) provides that the peremptory grounds for the continuance or extension are available to and for the benefit of a legislative member or employee for continuance of any type of proceeding and for the extension of any type of deadline pertaining to a criminal case, civil case, or administrative proceeding.

Proposed law retains present law and adds that the peremptory grounds are available for any type of legal delay.

Present law (R.S. 13:4163(C)(1)(a) and (b)) provides that peremptory grounds for a legislative continuance and time extension shall be granted for any time between thirty days prior to the original call to order and thirty days following the adjournment sine die of any session of the legislature and thirty days prior to the convening and thirty days following the adjournment sine die of any constitutional convention.

Proposed law extends the time frame to sixty days prior and after the legislative call to order and adjournment and constitutional convention convening and adjournment.

Present law (R.S. 13:4163(C)(1)(c)) provides that a legislative continuance or time extension shall be granted in connection with or ordered by the following:

- (1) The legislature.
- (2) Any legislative committee or subcommittee appointed by the president of the Senate or speaker of the House of Representatives.

- (3) Any committee or commission appointed by the governor or other person authorized to make such appointments.
- (4) Any constitutional convention or commission.

Proposed law changes (2) to include legislative caucuses, delegations, task forces, special select committees, and commissions and adds (5) the legislator's role as a legislator or duty to constituents.

Proposed law (R.S. 13:4163(C)(3)) 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 a member or employee is required to attend convenes.

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 client of a member or employee.

Proposed law (R.S. 13:4163(D)(2)(b)) retains present law but adds that if an opposition is filed against a motion for legislative continuance and extension, the moving party or attorney shall be required to pay reasonable attorney fees and court costs unless the court finds the opposing of the motion was based on specific statutory authority.

Present law (R.S. 13:4163(E)(1)) provides for notice requirements for the filing of legislative continuances or extensions. For the convening of a regular legislative session or constitutional convention, the motion shall be filed no later than 5 days prior to the hearing or proceeding to be continued. For extraordinary sessions and other legislative activities, the motion shall be filed the later of 5 days prior to the hearing or proceeding to be continued or no later than 2 days following the issuance of the notice of the meeting or call for the extraordinary legislative session.

Proposed law retains present law and provides that in circumstances where the member or employee is unable to comply with the notice requirement, the member or employee shall give notice at the earliest time practicable prior to the hearing or proceeding to be continued.

Present law (R.S. 13:4163(G)) provides that any action taken against a person who has filed a motion for legislative continuance or extension which results from the failure of such person to appear or comply with an order of the court or agency or any deadline shall be considered an absolute nullity and shall be set aside by the court or agency upon the filing of a motion by the aggrieved person.

Proposed law provides that in actions where present and proposed law are misapplied, those actions shall be considered absolutely null and set aside upon the filing of a motion by the aggrieved person.

Present law (R.S. 13:4163(H)) provides that a person or attorney who has filed a motion for legislative continuance or extension which that has not been granted within 72 hours may appeal directly to the Supreme Court of La. for a supervisory writ to review the action or inaction of the court or agency. If the motion is denied, the denial shall be an appealable order.

Proposed law retains present law and provides that the order shall include written reasons for denying the motion.

Proposed law retains present law and provides that an appeal or application for supervisory writ on a motion for legislative continuance or extension which that has not been granted shall be filed at not cost to a member, employee, or client of a member or employee.

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