

2022 Regular Session

HOUSE BILL NO. 644

BY REPRESENTATIVE GREEN

CIVIL/PROCEDURE: Provides relative to continuances or extensions in court proceedings

1 AN ACT

2 To amend and reenact R.S. 13:4163(A)(1), (B), (C)(1), (D)(2), (E)(1)(a) and (b) and
3 (E)(2)(introductory paragraph), (F)(1), (G), (H), and (I) and to enact R.S.
4 13:4163(C)(3) and (E)(2)(c), relative to civil procedure; to provide for continuances
5 or extension of certain deadlines; to provide relative to legislators or employees
6 engaged in legislative or constitutional convention activities; to provide for
7 legislative activities; to provide relative to the Public Service Commission and Board
8 of Elementary and Secondary Education; to provide for judicial notice; to provide
9 relative to appeals; to provide relative to appeal costs; and to provide for related
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 13:4163(A)(1), (B), (C)(1), (D)(2), (E)(1)(a) and (b) and
13 (E)(2)(introductory paragraph), (F)(1), (G), (H), and (I) are hereby amended and reenacted
14 and R.S. 13:4163(C)(3) and (E)(2)(c) are hereby enacted to read as follows:

15 §4163. Ex parte motion for legislative or public representative continuance or
16 extension of time; legislators or public representative or employees engaged
17 in legislative or constitutional convention activities

18 A.(1) A member of the legislature, Public Service Commission, or Board of
19 Elementary and Secondary Education and ~~a legislative~~ an employee of the
20 legislature, Public Service Commission, or Board of Elementary and Secondary
21 Education ~~employee~~ shall have preemptory grounds for continuance or extension of
22 a criminal case, civil case, or administrative proceeding as provided below. The

1 continuance or extension ~~shall~~ may be sought by written motion specifically alleging
2 these grounds.

3 * * *

4 B. The peremptory grounds for continuance or extension ~~is~~ are available to
5 and for the benefit of a member of the legislature, Public Service Commission, or
6 Board of Elementary and Secondary Education or ~~legislative~~ employee and may only
7 be asserted or waived by a member or employee.

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

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

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

17 (c) Any time other than those provided in Subparagraph (a) or (b) of this
18 Paragraph when such person is engaged in activities, including travel, in connection
19 with or ordered by any of the following: (i) the legislature; (ii) any legislative
20 committee, caucus, delegation, task force, special select committee, commission, or
21 subcommittee ~~appointed by the president of the Senate or the speaker of the House~~
22 ~~of Representatives~~; (iii) any committee or commission appointed by the governor or
23 other person authorized to make such appointments; ~~or~~ (iv) any constitutional
24 convention or commission; (v) the legislator's role as a legislator or duty to
25 constituents for which the legislator is eligible to receive a per diem; or (vi) any
26 meeting or hearing for the Public Service Commission or Board of Elementary and
27 Secondary Education.

28 * * *

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

5 D.

6 * * *

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

9 (b) If a party or attorney opposes a motion for continuance or extension,
 10 upon motion of any party or upon its own motion, the court shall award attorney fees
 11 of not less than one thousand dollars and court costs payable to the member or
 12 employee by the party or attorney who opposed a motion for legislative continuance
 13 or extension.

14 E.(1)(a) If the grounds for a ~~legislative~~ continuance or extension are founded
 15 upon the convening of a regular or veto legislative session or a constitutional
 16 convention, the motion for ~~legislative~~ continuance or extension shall be timely if
 17 filed no later than five calendar days prior to the hearing or proceeding to be
 18 continued.

19 (b)(i) If the grounds for a ~~legislative~~ continuance or extension are founded
 20 upon any provision of Subparagraph (C)(1)(c) of this Section or upon the issuance
 21 of a call for an extraordinary session of the legislature, the motion for legislative
 22 continuance or extension shall be timely if filed no later than five calendar days prior
 23 to the hearing or proceeding to be continued or no later than two days following the
 24 issuance of the notice of the meeting or of the call for the extraordinary legislative
 25 session, which ever occurs last.

26 (ii) If the grounds for continuance or extension are founded upon any
 27 provision of Subparagraph (C)(1)(c) of this Section and the member or employee is
 28 unable to comply with the notice requirements of this Paragraph, the member or

1 employee shall give notice at the earliest time practicable prior to the hearing or
2 proceeding to be continued.

3 * * *

4 (2) Within seventy-two hours of the filing of a motion for a ~~legislative~~
5 continuance or extension, the court or agency shall grant the continuance or
6 extension ex parte as follows:

7 * * *

8 (c) If a legal deadline has run, a motion to continue or extend a legal
9 deadline shall be timely if filed within five days prior to a hearing or proceeding on
10 a motion for sanctions or penalties brought by opposing counsel for the failure of the
11 member or employee to comply with the legal deadline.

12 F.(1) The provisions of this Section shall not apply to ~~cases in the Supreme~~
13 ~~Court of Louisiana,~~ criminal cases where the death penalty is sought; and
14 administrative rulemaking authorized by R.S. 49:953.

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 continuance
23 or extension which resulted from or relates back to a misapplication of this Section
24 shall be considered an absolute nullity and shall be set aside by a court or agency
25 upon the filing of a motion by the aggrieved person or attorney, at no cost to a
26 member, employee, or client of a member or employee.

27 H.(1) Any person or attorney who has filed a motion for ~~legislative~~
28 continuance or extension which has been denied or which has not been granted
29 within seventy-two hours of filing may apply directly to the Supreme Court of

1 Louisiana for supervisory writs to review the action or inaction of the court or
2 agency where the motion was filed.

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

8 I.(1) For sufficient cause shown, the court shall consider a motion for
9 ~~legislative~~ continuance or extension at any time prior to the hearing or proceeding.

10 (2) The motion for a ~~legislative~~ continuance may be filed by electronic
11 means such as facsimile transmission or electronic mail, or any other means
12 authorized by law, provided that the mover shall provide all opposing counsel or
13 parties with a copy of the motion, simultaneously with the transmission of the
14 motion to the court.

15 Section 2. This Act shall become effective upon signature by the governor or, if not
16 signed by the governor, upon expiration of the time for bills to become law without signature
17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
18 vetoed by the governor and subsequently approved by the legislature, this Act shall become
19 effective on the day following such approval.

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 Reengrossed

2022 Regular Session

Green

Abstract: Provides relative to continuances and extensions of time in court proceedings.

Present law (R.S. 13:4163) provides members of the legislature and legislative employees peremptory grounds for continuance or extension of any criminal case, civil case, or administrative proceeding.

Proposed law expands present law to include peremptory grounds for continuance or extension of time for members and employees of the Public Service Commission or the Board of Elementary and Secondary Education.

Present law (R.S. 13:4163(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. 13:4163(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. Proposed law expands the peremptory grounds to members and employees of the Public Service Commission or Board of Elementary and Secondary Education.

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 30 days prior to the original call to order and 30 days following the adjournment sine die of any session of the legislature and 30 days prior to the convening and 30 days following the adjournment sine die of any constitutional convention.

Proposed law extends the time frame to 60 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 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 for which the legislator is eligible to receive per diem and (6) any meeting or hearing for the Public Service Commission or Board of Elementary and Secondary Education.

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 or public representative 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 five 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 five days prior to the hearing or proceeding to be continued or no later than two 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.

Proposed law provides that if a legal deadline has run, a motion to continue or extend a legal deadline shall be timely if filed within five days prior to a hearing or proceeding on a motion for sanctions or penalties.

Present law (R.S. 13:4163(F)(1)) provides that a legislative continuance or extension shall not apply to cases in the Supreme Court of La., criminal cases where the death penalty is sought and certain administrative rulemaking procedures.

Proposed law removes the exception for the Supreme Court of La.

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 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.

Effective upon signature of governor or lapse of time for gubernatorial action.

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

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Provide that the peremptory grounds for continuance or extension of time is applicable to Public Service Commission members or employees and Board of Elementary and Secondary Education members or employees.

2. Remove references limiting the motion for continuance or extension of time to just legislative members and employees and adds public representatives of the Public Service Commission and Board of Elementary and Secondary Education members and employees.
3. Provide that the motion for continuance or extension of time shall be available for events in connection with the legislator's role as a legislator for which he is eligible to receive a per diem and for meetings and hearings of the Public Service Commission or Board of Elementary and Secondary Education.
4. Provide that if a legal deadline has run, a motion to continue or extend a legal deadline shall be timely if filed within five days prior to a hearing or proceeding on a motion for sanctions or penalties brought by opposing counsel for failure to comply with the legal deadline.
5. Remove prohibition of continuance or extension of time from cases in the Supreme Court of La.
6. Provide for an effective date upon gubernatorial signature.
7. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Clarify that proposed law is applicable to employees of the legislature, Public Service Commission, and Board of Elementary and Secondary Education.