

GREEN SHEET REDIGEST

HB 644

2022 Regular Session

Green

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

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DIGEST

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.

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.

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 adds legislative duties for which the legislator is paid a per diem.

Proposed law (R.S. 13:4163(C)(3)) provides that the court shall take judicial notice any time the legislature or any legislative committee 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 or veto 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.

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.

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), (G) and (H); 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.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the reengrossed bill

1. Makes technical changes.
2. Removes provisions of proposed law which includes Public Service Commission, Board of Elementary and Secondary Education and an employee of each agency having peremptory grounds for legislative continuance.
3. Removes \$1,000 minimum attorney fee award if a party or attorney opposes a legislative continuance.
4. Adds that the filing of a motion for legislative continuance does not interrupt prescription.
5. Adds that the court shall take judicial notice any time the legislature or a legislative committee convenes and the member or employee is required to attend.
6. Adds legislative duties for which the legislator is paid a per diem as peremptory grounds for a legislative continuance.