
DIGEST

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HB 544 Original

2023 Regular Session

Jordan

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

Present law provides for ex parte motions for legislative continuances or extension of time for legislators and legislative employees.

Present law (R.S. 13:4163(B)) provides that peremptory grounds for continuance or extension may only be asserted or waived by a member or employee.

Proposed law retains present law and provides that any waiver of privilege shall be express and in writing.

Present law (R.S. 13:4163(C)) provides that such peremptory grounds as provided in present law shall be available in the following times:

- (1) Any time between 30 days prior to the original call of order and 30 days following adjournment sine die of any session of the legislature.
- (2) Any time between 30 days prior to the convening and 30 days following adjournment sine die of any constitutional convention.
- (3) Any time when the person is engaged in activities connected to or ordered by the legislature, any legislative committee or subcommittee, any committee or convention appointed by the governor or other authorized person, or any constitutional convention or commission.

Proposed law expands present law and provides that the peremptory grounds are available when such person is engaged in activities in connection with the legislator's role as legislator or duty to the constituents for which the legislator is eligible to receive a per diem.

Proposed law 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 the member or employee is required to attend.

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 a member or employee's client.

Proposed law retains present law and provides that if a party or attorney opposes a motion for

continuance or extension, the court shall award attorney fees of at least \$1,000 and court costs to the member or employee. The attorney who opposes a motion for continuance or extension shall also be subject to sanctions pursuant to C.C.P. Art. 863 by the judge presiding at the time of the motions.

Present law (C.C.P. Art. 863) provides that the signature of an attorney or party on a pleading constitutes a certification by the attorney or party that they have read the pleading and to the best of their knowledge, information, and belief formed after reasonable inquiry, the attorney or party certifies all of the following:

- (1) The pleading is not being presented for any improper purpose.
- (2) Each claim, defense, or other legal assertion in the pleading is warranted.
- (3) Each allegation or other factual assertion has evidentiary support or is likely to have evidentiary support.
- (4) Each denial in the pleading is warranted by evidence or reasonably based on a lack of information or belief.

Present law provides that if the court determines that a certification has been made in violation of present law the court shall impose an appropriate sanction.

Present law (R.S. 13:4163(E)(1)) provides if the grounds for a legislative continuance or extension are founded upon the convening of a regular legislative session or constitutional convention, the motion shall be timely if filed no later than five calendar days prior to the hearing to be continued.

Proposed law retains present law and adds veto legislative sessions, and, if the grounds for continuance or extension or founded upon legislative activities and the member or employee is unable to comply with the notice requirements, 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(E)(2)) provides that within 72 hours of the filing for a motion for a legislative continuance or extension, the court shall grant the continuance or extension ex parte.

Proposed law retain present law but 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 proceedings on a motion for sanctions or penalty brought by opposing counsel for the failure of the member or employee to comply with the legal deadline.

Present law (R.S. 13:4163(F)) provides that present law shall not apply to cases in the supreme court, criminal cases where the death penalty is sought, and administrative rulemaking.

Proposed law changes present law and permits the legislative continuance or extension to be used in cases in the supreme court.

Present law (R.S. 13:4163(G)) provides that actions taken against a person who has filed a motion for legislative continuance or extension and resulting from such person or attorney to appear or comply with the court shall be an absolute nullity and set aside by the court upon a filing of a motion by the aggrieved person or attorney.

Proposed law retains present law and provides that actions taken against a person who has filed for continuance or extension which resulted from or relates back to a misapplication of proposed law shall be considered an absolute nullity and shall be set aside by the court at no cost to the member, employee, or member or employee's client.

Present law (R.S. 13:4163(H)) provides that any person who has filed a motion for legislative continuance or extension which has been denied or not been granted within 72 hours of filing may apply directly to the supreme court for supervisory writs.

Proposed law retains present law and provides that actions taken against a person who has filed for continuance or extension which resulted from or relates back to a misapplication of proposed law may be appealed to or a supervisory writ may be filed with the supreme court or courts of appeal at no cost to a member, employee, or member or employee's client.

Proposed law provides that a denial of a motion filed pursuant to present law shall result in a recusal of the judge or presiding officer if so requested by the member or legislative employee.

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