

SENATE BILL NO. 40

BY SENATOR FOIL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To enact R.S. 42:1141.7 and 1141.8, relative to motions and exceptions; to provide for a
3 motion for summary judgment for matters pending before the Ethics Adjudicatory
4 Board; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 42:1141.7 and 1141.8 are hereby enacted to read as follows:

7 **§1141.7. Motions and exceptions**

8 **A. Motions and exceptions may be made before, during, or after a public**
9 **hearing.**

10 **B. Any motion or exception made before or after the public hearing shall**
11 **be filed with the appropriate panel of the Ethics Adjudicatory Board. Any**
12 **contradictory motion or exception shall be accompanied by a memorandum**
13 **which shall set forth a concise statement of the grounds upon which the relief**
14 **sought is based and the legal authority therefor.**

15 **§1141.8. Summary judgment**

16 **A. A motion for summary judgment may be filed by the Board of Ethics**
17 **or the respondent without leave of the Ethics Adjudicatory Board and without**
18 **an agreement by any other party to the use of summary judgment procedure,**
19 **at any time before, during, or after a public hearing on the merits.**

20 **B. After an opportunity for adequate discovery, a motion for summary**
21 **judgment shall be granted if the motion, memorandum, and supporting**
22 **documents show that there is no genuine issue as to a material fact and that the**
23 **mover is entitled to judgment as a matter of law.**

24 **C. Only documents provided for in Code of Civil Procedure Articles 966**

1 and 967 may be filed in support of or in opposition to the motion.

2 D. The Ethics Adjudicatory Board may exclude incompetent, irrelevant,
3 immaterial, or unduly repetitious evidence.

4 E. An objection to an evidentiary offer may be made and shall be noted
5 in the record. When an objection to an evidentiary offer is sustained by the
6 Ethics Adjudicatory Board, the subject evidence shall be considered proffered
7 into the record with or without a motion.

8 F.(1) The burden of proof rests with the mover. Nevertheless, if the
9 mover will not bear the burden of proof at the public hearing on the merits of
10 the issue before the Ethics Adjudicatory Board on the motion for summary
11 judgment, the mover's burden on the motion does not require him to negate all
12 essential elements of the adverse party's claim, action, or defense, but rather to
13 point out to the board the absence of factual support for one or more elements
14 essential to the adverse party's claim, action, or defense.

15 (2) The burden is on the adverse party to produce factual support
16 sufficient to establish the existence of a genuine issue of material fact or that the
17 mover is not entitled to judgment as a matter of law.

18 G. The Ethics Adjudicatory Board may render a summary judgment
19 dispositive of a particular issue or defense in favor of one or more parties even
20 though the granting of the summary judgment does not dispose of the entire
21 matter as to that party or parties.

22 H. The Ethics Adjudicatory Board may render or affirm a summary
23 judgment only as to those issues set forth in the motion under consideration by
24 the board at that time.

25 I. The Ethics Adjudicatory Board shall transmit notice of the hearing
26 on the motion for summary judgment to the Board of Ethics through the
27 secured electronic file transfer system and to the respondent through his
28 counsel of record, or if no counsel of record, to the respondent, by either email
29 or regular mail to the last known email or mailing address provided by the
30 respondent's counsel of record or respondent to the Ethics Adjudicatory Board.

1 J. The denial of a motion for summary judgment by the Ethics
2 Adjudicatory Board is an interlocutory judgment and is not appealable
3 pursuant to R.S. 42:1142(A).

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____