

Regular Session, 2013

HOUSE BILL NO. 307

BY REPRESENTATIVE LAMBERT

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

ENVIRONMENT/QUALITY DEPT: Provides for stays during appeals of certain decisions of the Department of Environmental Quality

1 AN ACT

2 To amend and reenact R.S. 30:2050.21(F) and 2050.22(B), relative to judicial appeals of
3 certain decisions by the Department of Environmental Quality; to provide for appeals
4 of final permit actions, final enforcement actions, and declaratory rulings; to provide
5 for stays of appealed compliance orders, final permit actions, and declaratory rulings;
6 to provide for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 30:2050.21(F) and 2050.22(B) are hereby amended and reenacted
9 to read as follows:

10 §2050.21. Judicial review; appeal

11 * * *

12 F. The provisions of R.S. 49:964(~~C~~), (F); and (G), including the standard of
13 review, shall apply to appeals provided in this Section.

14 * * *

15 §2050.22. Judicial review; appeal; stays

16 * * *

17 B. The filing of an appeal does not stay a compliance order, a final permit
18 action, or a declaratory ruling. However, the secretary may grant, or the court may
19 order, a stay with appropriate terms. The court may order a stay of a final permit

1 action only after notice to the department and the permittee and an opportunity for
2 a hearing on the requested stay.

3 Section 2. This Act shall become effective upon signature by the governor or, if not
4 signed by the governor, upon expiration of the time for bills to become law without signature
5 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
6 vetoed by the governor and subsequently approved by the legislature, this Act shall become
7 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)]

Lambert

HB No. 307

Abstract: Authorizes a court to order a stay of a final permit action only after notice and an opportunity for a hearing and removes the authority to grant such stays ex parte.

Present law provides for stays of agency decisions through judicial review in the Administrative Procedure Act. Specifies that these stays may be granted by the agency or the court ex parte and may be granted in accordance with local court rules pertaining to injunctive relief and issuance of temporary restraining orders.

Proposed law removes reference to stays from the Administrative Procedure Act for decisions of the Dept. of Environmental Quality.

Present law provides that the filing of an appeal of a compliance order, final permit action, or declaratory ruling does not stay such decision of the Dept. of Environmental Quality. However, the secretary or a court may grant a stay.

Proposed law retains present law and adds that the stay of a final permit action may only be ordered by a court after notice to the parties and an opportunity for a hearing.

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

(Amends R.S. 30:2050.21(F) and 2050.22(B))