

## RÉSUMÉ DIGEST

ACT 316 (HB 296)

2015 Regular Session

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Existing law (Code of Governmental Ethics, R.S. 42:1101 et seq.) provides ethical standards for public officials and employees and certain other persons, including prohibited conflicts of interest involving payments from nonpublic sources, prohibited participation in transactions, prohibited contractual arrangements, prohibited gifts, abuse of office, nepotism, financial disclosure, and post public service restrictions. Provides exceptions.

Existing law provides for the Board of Ethics and the Ethics Adjudicatory Board and the powers and duties of each board. Provides that the ethics board receives complaints, conducts investigations concerning alleged violations of laws within its jurisdiction (including the Code of Governmental Ethics), and issues charges based on alleged violations. Provides that the adjudicatory board conducts hearings on the charges to determine whether a violation has in fact occurred and, if a violation has occurred, determines what penalties or other sanctions should be imposed.

Existing law (Public Records Law, R.S. 44:1 et seq.) provides that all books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of the state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of the state are "public records". Establishes a framework for the availability of public records to requesting persons, and specifically provides that it is the duty of the custodian of the public records for a public entity or agency to provide copies to persons so requesting. Existing law provides certain exceptions, exemptions, and limitations.

Existing law (R.S. 42:1141.4 - Code of Governmental Ethics) provides that the records of the Board of Ethics prepared or obtained in connection with investigations and private hearings are confidential and privileged, except that such records shall be available to each member of the board. Further specifies that records, including the results and conclusions reached in connection with any investigation or hearing, shall be public. Provides exceptions.

New law provides an additional exception to existing law (Public Records Law) for records, or the information contained therein, held by the Board of Ethics pertaining to enforcement proceedings. Provides, however, that any such record shall be public record and subject to the provisions of existing law when introduced as evidence before the Ethics Adjudicatory Board or a court or when the enforcement proceedings are concluded, subject to the limitations in existing law (R.S. 42:1141.4).

In addition, new law provides that a person may request expungement of ethics enforcement records relative to a complaint filed with the Board of Ethics alleging that the person violated one or more provisions of existing law (Code of Governmental Ethics) if each of the following requirements is satisfied:

- (1) The allegations in the complaint involved the person's status as a public employee.
- (2) The person was a public employee solely because of his uncompensated service on a board or commission.
- (3) The Board of Ethics issued charges based on the complaint that, at the conclusion of enforcement proceedings, did not result in a finding of a violation of existing law (Code of Governmental Ethics).

Provides, however, that new law does not apply to enforcement proceedings that are concluded by consent opinion.

New law provides requirements and procedures for expungement. Provides that the Board of Ethics and the Ethics Adjudicatory Board shall remove from public access all ethics enforcement records that are ordered to be expunged, but the records shall not be destroyed. Provides that an expunged ethics enforcement record shall be privileged, confidential, no longer be considered a public record, and not be made available to any person or other entity except each member of the Board of Ethics and the Ethics Adjudicatory Board and to their respective staff members.

New law provides further that all records and deliberations concerning a request for expungement shall be confidential and shall not be made available to any person or other entity except each member of the Board of Ethics and its staff.

Effective August 1, 2015.

(Amends R.S. 44:4.1(B)(28); Adds R.S. 42:1191-1194 and R.S. 44:3.4)