

# COMMITTEE ON HOUSE AND GOVERNMENTAL AFFAIRS

## Minutes of Meeting 2012 Regular Session April 4, 2012

### I. CALL TO ORDER

Representative Tim Burns, Chairman of the Committee on House and Governmental Affairs, called the meeting to order at 9:37 a.m. in Committee Room 2. The secretary called the roll.

### II. ROLL CALL

#### MEMBERS PRESENT:

Timothy G. Burns, Chairman  
Michael E. Danahay, Vice Chairman  
Taylor F. Barras  
John A. "Johnny" Berthelot  
Stuart J. Bishop  
Jared C. Brossett  
Randal L. Gaines  
Girod Jackson III  
Anthony V. Ligi, Jr.  
Gregory A. Miller  
Stephen E. Pugh

#### MEMBERS ABSENT:

#### STAFF MEMBERS PRESENT:

M. Patricia Lowrey-Dufour, Legislative Analyst  
Mark Mahaffey, Attorney  
Shawn O'Brien, Secretary  
Myron Shaffer, Sergeant at Arms  
Susan Broussard, Sergeant at Arms

### III. DISCUSSION

#### **House Bill No. 942 by Representative Tim Burns**

House Bill No. 942 provides relative to enforcement of provisions of law under the jurisdiction of the Board of Ethics, providing for the appeal of actions taken to enforce such laws, including giving the board a limited right to appeal final decisions of the Ethics Adjudicatory Board. Representative Burns presented the bill with Mr. Cloyce Clark, representing the governor's office.

Mr. Clark noted that passage of the governor's ethics package at the beginning of his first term required revisions to address some inconsistencies and/or confusion in the laws enacting such reforms.

Mr. Mark Mahaffey, staff attorney, explained technical amendments to the bill.

Representative Ligi offered a motion that the technical amendments be adopted, to which there was no objection. Representatives Barras, Berthelot, Brossett, Burns, Gaines, Ligi, Miller, and Pugh voted 8-0 to adopt the amendments.

Representative Pugh proposed amendments which Ms. Patricia Lowrey-Dufour, senior legislative analyst, explained would remove a provision that any refusal by the Board of Ethics or its panels to issue any preliminary, procedural, or intermediate action or ruling is subject to the supervisory jurisdiction of the appellate court and add a provision that the Board of Ethics shall be responsible for the payment of reasonable attorney fees and courts costs of the other party if it does not prevail in the final disposition of its appeal.

Representative Pugh made a motion to adopt the amendments, to which there was no objection. Representatives Barras, Berthelot, Brossett, Burns, Gaines, Ligi, Miller, and Pugh voted 8-0 to adopt the amendments.

Mr. Robert Travis Scott and Mr. Terry Ryder, PAR of Louisiana, 4664 Jamestown Avenue, Baton Rouge, Louisiana, 225-926-8414, made available PAR's March 2012 report, "Toward Stronger Ethics". Mr. Scott stated PAR's support of House Bill No. 942 and added that the right of appeal of ethics decisions will make the enforcement of ethics law more consistent but suggested that a unanimous vote of the Board of Ethics to appeal an item is too high a bar and that clarification of the term "questions of law" is needed. Mr. Ryder stated that responsibility for attorney fees would have a chilling effect on appeals.

Mr. Barry Erwin, CABL, P. O. Box 4308, Baton Rouge, Louisiana, filed a witness card in support of the legislation but chose not to testify.

Ms. Kathleen Allen, ethics administrator, Board of Ethics, 617 N. Third Street, 10<sup>th</sup> Floor, Baton Rouge, Louisiana, was present to provide information.

Representative Burns offered a motion that the bill be reported with amendments, to which there was no objection. Representatives Barras, Berthelot, Bishop, Brossett, Burns, Gaines, Ligi, Miller, and Pugh voted 9-0 to report House Bill No. 942 with amendments.

#### **House Bill No. 147 by Representative Fannin**

House Bill No. 147, relative to voter registration, deletes requirements relative to publishing the list of inactive voters prior to federal elections. There was no discussion on the bill.

At the request of the author, Representative Ligi moved that action be voluntarily deferred on the bill. Representatives Barras, Berthelot, Bishop, Brossett, Burns, Gaines, Ligi, Miller, and Pugh voted 9-0 in favor of the motion.

**House Bill No. 950 by Representative Tim Burns**

House Bill No. 950 provides relative to the enforcement of provisions of law under the jurisdiction of the Board of Ethics. Representative Burns presented the bill with Mr. Cloyce Clark, representing the governor's office.

Mr. Clark explained that the bill clarifies distinctions between the "Ethics Board" and "Ethics Adjudicatory Board" (EAB) throughout the law and that the one-year period within which the Ethics Board must issue charges from the date of receipt of a sworn complaint or vote to consider a matter are prescriptive rather than preemptive. Explicit areas where such period shall be suspended are also included in the bill, he stated.

Mr. Mark Mahaffey, staff attorney, explained proposed amendments that would specify that the one-year prescriptive period for the Board of Ethics to issue charges may be suspended, interrupted, or renounced; provide that the person who is the subject of the investigation or complaint may consent in writing to suspend the prescriptive period; in provisions providing that the prescriptive period is suspended upon the filing of an action in court or with the EAB, remove the requirement that such action be filed with intent to delay or impede the investigation and specify that the action must be related to the matter under investigation; in provisions of proposed law providing that the prescriptive period is suspended upon providing false, fraudulent, or misleading information with the Board of Ethics, remove the requirement that provision of such information be intentional; specify that all determinations concerning the prescriptive period, not suspensions only, shall be made by the EAB; and make various technical changes to present and proposed law.

Representative Ligi offered a motion to adopt the amendments as explained by staff. There being no objection, Representatives Barras, Berthelot, Bishop, Brossett, Burns, Gaines, Ligi, Miller, and Pugh voted 9-0 to adopt them.

Mr. Robert Travis Scott and Mr. Terry Ryder, PAR of Louisiana, 4664 Jamestown Avenue, Baton Rouge, Louisiana, 225-926-8414, appeared before the committee in support of the bill. Mr. Scott stated that the clarifications would be helpful to the process and would address weaknesses in the program identified in PAR's research.

Mr. Barry Erwin, CABL, P. O. Box 4308, Baton Rouge, Louisiana, filed a witness card in support of the legislation but chose not to testify.

Ms. Kathleen Allen, ethics administrator, Board of Ethics, 617 N. Third Street, 10<sup>th</sup> Floor, Baton Rouge, Louisiana, was present to provide information.

Representative Burns moved that the committee report House Bill No. 950 with amendments, to which there was no objection. Representatives Barras, Berthelot, Bishop, Brossett, Burns, Gaines, Ligi, Miller, and Pugh voted 9-0 to report the bill with amendments.

**House Bill No. 955 by Representative Tim Burns**

House Bill No. 955 clarifies the powers, functions, and duties of the Supervisory Committee on Campaign Finance Disclosure and the Ethics Adjudicatory Board (EAB) relative to the assessment of penalties and the enforcement of certain violations of the Campaign Finance Disclosure Act (CFDA). Representative Burns presented the bill with Mr. Cloyce Clark, representing the governor's office.

Mr. Clark stated that the bill clarifies the law by deleting ethics code references that are duplicated in the CFDA, clarifying that the latter governs enforcement and adjudication of the existing process that gives the Ethics Board staff the authority to issue a final order assessing a civil penalty which the respondent can ask to have waived or appealed to the EAB.

Ms. Patricia Lowrey-Dufour, senior legislative analyst, explained proposed technical amendments which provide that the supervisory committee, when an investigation indicates a violation has occurred, may file civil proceedings to collect per-day civil penalties for willfully failing to disclose or knowingly and willfully failing to accurately disclose any information required until such information is disclosed by amendment.

Representative Ligi proposed a motion to adopt the technical amendments, to which there was no objection. Representatives Barras, Berthelot, Bishop, Brossett, Burns, Gaines, Ligi, Miller, and Pugh voted 9-0 in favor of the motion.

Mr. Robert Travis Scott and Mr. Terry Ryder, PAR of Louisiana, 4664 Jamestown Avenue, Baton Rouge, Louisiana, 225-926-8414, and Mr. Barry Erwin, CABL, P. O. Box 4308, Baton Rouge, Louisiana, filed witness cards in support of the legislation but chose not to testify.

Ms. Kathleen Allen, ethics administrator, Board of Ethics, 617 N. Third Street, 10<sup>th</sup> Floor, Baton Rouge, Louisiana, was present to provide information.

Representative Burns offered a motion that the bill be reported with amendments, to which there was no objection. Representatives Barras, Berthelot, Bishop, Brossett, Burns, Gaines, Ligi, Miller, and Pugh voted 9-0 to report House Bill No. 955 with amendments.

**House Bill No. 372 by Representative Tim Burns**

House Bill No. 372 re-creates the Department of State for two more years, changing the termination date from July 1, 2013 to July 1, 2015. Representative Burns presented the bill, explaining the sunset process in general and stating that the committee would hold hearings in the near future to elaborate on departmental review.

Mr. Kyle Ardoin, first assistant secretary of state, P. O. Box 94125, Baton Rouge, Louisiana, 225-922-2880, was available to provide information.

Representative Brossett proposed a motion to report the bill favorably, to which there was no objection. Representatives Barras, Berthelot, Bishop, Brossett, Burns, Gaines, Ligi, Miller, and Pugh voted 9-0 to report House Bill No. 372 favorably.

**House Bill No. 373 by Representative Tim Burns**

House Bill No. 373 re-creates the Department of State Civil Service for two more years, changing the termination date from July 1, 2013 to July 1, 2015. Representative Burns presented the bill, stating that the two-year period would give the committee the opportunity to conduct a more in-depth sunset review in the near future.

Mr. Robert Lawrence, Office of State Examiners, 8550 United Plaza Blvd., Suite 901, Baton Rouge, Louisiana, and Ms. Kathleen Allen, ethics administrator, Board of Ethics, 617 N. Third Street, 10<sup>th</sup> Floor, Baton Rouge, Louisiana, were present to provide information upon request.

Representative Pugh proposed a motion to report the bill favorably, to which there was no objection. Representatives Barras, Berthelot, Bishop, Brossett, Burns, Gaines, Miller, and Pugh voted 8-0 in favor of the motion, and House Bill No. 373 was reported favorably.

**House Bill No. 667 by Representative Katrina Jackson**

House Bill No. 667 postpones the convening of a regular session in the first year of a term of office from the second Monday in March to the fourth Monday in March. Representative Katrina Jackson presented the bill, stating that it would give newly elected members more time to prepare a legislative package in their first regular session.

Representative Gaines proposed a motion that House Bill No. 667 be reported favorably, to which Representative Pugh objected. The secretary called the roll on Representative Gaines' motion. Representatives Berthelot, Brossett, and Gaines voted yea; Representatives Bishop, Burns, Danahay, Miller, and Pugh voted nay; and the motion failed by a vote of 3-5.

Representative Burns made a motion that the committee involuntarily defer action on the bill, to which there was no objection. Representatives Berthelot, Bishop, Brossett, Burns, Danahay, Gaines, Miller, and Pugh voted 8-0 to adopt the motion.

**House Bill No. 712 by Representative St. Germain**

House Bill No. 712 provides relative to retention of public records. There was no discussion on the bill.

At the request of the author, Representative Miller made a motion that the committee voluntarily defer action on the bill, to which there was no objection. Representatives Berthelot, Bishop, Brossett, Burns, Danahay, Gaines, Miller, and Pugh voted 8-0 in favor of the motion.

**House Bill No. 791 by Representative St. Germain**

House Bill No. 791 provides relative to confidentiality of certain public records. There was no discussion on the bill.

At the request of the author, Representative Miller made a motion that the committee

voluntarily defer action on the bill, to which there was no objection. Representatives Berthelot, Bishop, Brossett, Burns, Danahay, Gaines, Miller, and Pugh voted 8-0 in favor of the motion.

### **House Bill No. 710 by Representative Barrow**

House Bill No. 710 lowers the expenditure threshold to file campaign finance disclosure reports, requiring a candidate for an office other than a district or major office to file if the candidate makes expenditures in excess of \$2,500, down from \$5,000. Representative Barrow presented the measure.

Representative Gaines proposed a motion to report the bill favorably, to which there was no objection. Representatives Berthelot, Bishop, Brossett, Burns, Danahay, Gaines, Miller, and Pugh voted 8-0 to report House Bill No. 710 favorably.

Representative Pugh offered a motion that the bill be placed on the Local and Consent Calendar. There being no objection, Representatives Berthelot, Bishop, Brossett, Burns, Danahay, Gaines, Miller, and Pugh voted 8-0 on the calendar motion.

### **House Bill No. 301 by Representative Broadwater**

House Bill No. 301 is a constitutional amendment providing for terms of service for classified workers' compensation judges and providing that upon expiration of such a term, unless reappointed, such a judge shall be in the unclassified service. Representative Broadwater explained the bill, saying that it eliminates confusion relative to any classified civil servant serving for specific terms of office which are not recognized in the constitution.

Mr. George Meretta, Louisiana Municipal Association, 700 North 10<sup>th</sup> Street, Baton Rouge, Louisiana, 225-344-5001; Ms. Wanda Freedman, PCI, 8555 United Plaza Blvd., Baton Rouge, Louisiana, 225-603-8764; and Mr. Jim Patterson, LABI, 3113 Valley Creek Drive, Baton Rouge, Louisiana, 225-928-5388, submitted witness cards indicating their support for House Bill No. 301 but did not testify.

Mr. Clark Cosse', Louisiana Hospital Association, 9521 Brookline Avenue, Baton Rouge, Louisiana, 225-928-0026, spoke in opposition to the legislation, saying that the present system was organized to de-politicize the workers compensation judges system.

Ms. Julie Cherry, Louisiana AFL-CIO, 429 Government Street, Baton Rouge, Louisiana, 225-383-5741, speaking in opposition to the bill, said that the long-term effect would be to remove worker's compensation judges from the classified service, potentially politicizing the process. The problems the author seeks to address can be done in the statutes, she said.

Mr. William Ken Hawkins, representing injured workers, 130 East Pine Street, Ponchatoula, LA, 985-370-0588, spoke in opposition to House Bill No. 301, saying that there is no substantive reason for the proposed change.

Mr. Gregory Hubachek, member, Governor's Advisory Council on Workers' Compensation,

231 Adelaide Street, Natchitoches, LA, 504-838-8883, testified in opposition to the bill, saying that its effect would be to politicize judge positions.

Ms. Jennifer B. Valois, representing injured workers, 117 Teche Drive, Lafayette, LA, 337-230-3310, spoke in opposition to the legislation, pointing out that the office of workers' compensation is exempted from law that otherwise precludes administrative law judges' case results from being used in their employment performance criteria, as well as the low rate of appeals. She pointed out that insurance rates could be impacted by turnover of the ALJs.

Mr. Joseph Jolissaint, representing disabled workers, P. O. Box 83159, Baton Rouge, Louisiana, 225-757-5600; Mr. Ed Parker, AFSCME, 429 Government Street, Baton Rouge, Louisiana, 225-927-2800; Ms. Cindy Bishop, Louisiana Orthopedic Association, P. O. Box 80053, Baton Rouge, Louisiana; Ms. Janice Barber, representing injured workers, 2005 Hunting, Sulphur, Louisiana, 337-527-4630; Mr. J. Arthur Smith, III, 830 North Street, Baton Rouge, Louisiana, 225-383-7716; Mr. Jay Suire, 36 Judge Canan Drive, Crowley, Louisiana, 337-789-7523; Mr. Glenn Armentor, no address provided, Lafayette, Louisiana, 337-833-1471, submitted witness cards indicating their opposition to House Bill No. 301, but did not testify.

Representative Ligi offered a motion that House Bill No. 301 be reported favorably, to which Representative Gaines objected. The secretary called the roll on the motion, which the committee adopted by a 7-4 vote. Representatives Barras, Berthelot, Bishop, Burns, Jackson, Ligi, and Miller voted yea; Representatives Brossett, Danahay, Gaines, and Pugh voted nay.

### **House Bill No. 141 by Representative St. Germain**

Relative to deadlines and time periods for certain filings of financial disclosure statements, House Bill No. 141 changes the time a candidate must file the required statement from ten days after filing notice of candidacy to within three business days after the close of qualifying for election and changes the time a person has to respond to a notice of delinquency relative to such statements from 14 to seven business days after receipt. Representative St. Germain presented the legislation.

Mr. Gary Bennett, Assistant Executive Director, Louisiana Sheriffs' Association, 801 North Blvd., Suite 120, Baton Rouge, LA, assisted the author in her presentation. He pointed out that candidates who run against an incumbent have longer to file their first financial disclosure statement than the incumbent, who is already filing and updating such reports according to a schedule and again upon qualifying for the new election. The bill makes the system more fair to both, he said.

Mr. Michael Ranatza, Executive Director, Louisiana Sheriffs' Association, 801 North Blvd., Suite 120, Baton Rouge, LA, filed a witness card in support but chose not to testify.

Ms. Kathleen Allen, ethics administrator, Board of Ethics, 617 N. Third Street, 10<sup>th</sup> Floor, Baton Rouge, Louisiana, was present to provide information.

Representative Berthelot proposed a motion to report the bill favorably, to which there was no

objection. Representatives Barras, Berthelot, Bishop, Brossett, Burns, Danahay, Gaines, Jackson, Ligi, Miller, and Pugh voted 11-0 to report House Bill No. 141 favorably.

### **House Bill No. 763 by Representative St. Germain**

House Bill No. 763 provides relative to the retention and destruction of records in the custody of clerks of court. Representative St. Germain presented the bill with assistance from Mr. Kyle Ardoin, Secretary of State's Office, P. O. Box 94125, Baton Rouge, Louisiana, 225-342-4479.

Mr. Ardoin explained that the bill would eliminate confusion between relevant statutes that appear to conflict regarding various records and retention schedules for same. He said there are no known objections from the clerks of court to the proposal.

Ms. Kristin Wenstrom, Innocence Project New Orleans, 3301 Chartres Street, New Orleans, Louisiana, 504-943-1902, stated in support that those who are wrongfully convicted and serving life terms without parole rely heavily on availability of records for their cases. Twenty-one such individuals have been exonerated through the project, mostly through availability of both old criminal court and civil court records versus DNA evidence that is not always available, she said.

Mr. Johnny Koch, Ms. Pamela Mitchell, and Ms. Cassie Hughes, Louisiana Press Association, 8440 Jefferson Highway, Suite 301, Baton Rouge, LA, 225-929-7033, submitted witness cards expressing support for the measure but did not testify.

Ms. Carrie Fager, State Archives, 3851 Essen Lane, Baton Rouge, LA 225-925-7552, was available to provide information.

Representative Jackson proposed a motion to report the bill favorably, to which there was no objection. Representatives Barras, Berthelot, Bishop, Brossett, Burns, Danahay, Gaines, Jackson, Ligi, and Miller voted 10-0 to report House Bill No. 763 favorably.

### **House Bill No. 894 by Representative Tim Burns**

House Bill No. 894 changes the date of congressional general elections from the first to the second Saturday in December; provides that a bond, tax, or other election at which a proposition or question is submitted to the voters may be held on this date instead of the first Saturday in October; and provides that certain required notices for such an election to be held on a primary date and a proclamation calling a special election to be held on a primary date must be submitted at least four weeks prior to the opening of the qualifying period for the primary. Representative Burns presented the bill, noting that it had been discussed but not reported in the committee's March 21, 2012, meeting.

Ms. Angie Rogers, commissioner of elections, Secretary of State's Office, P. O. Box 94125, Baton Rouge, Louisiana, 225-342-4479, informed the committee that the bill clarifies and puts into law what has been the practice following the Love v. Foster case relative to congressional election dates and the windows of time necessary for the office to conduct such elections.



Mr. Mark Mahaffey, staff attorney, explained amendments that would change the date in proposed law of congressional general elections and elections held at the same time from the second Saturday in December to the fifth Saturday after the first Tuesday after the first Monday in November, i.e., the fifth Saturday after the congressional primary election.

Representative Brossett offered the amendments and proposed a motion to adopt the same. Representatives Barras, Berthelot, Bishop, Brossett, Burns, Danahay, Jackson, Ligi, Miller, and Pugh voted 10-0 to adopt the amendments.

Representative Burns offered a motion that the bill be reported with amendments, to which there was no objection. Representatives Barras, Berthelot, Bishop, Brossett, Burns, Danahay, Jackson, Ligi, Miller, and Pugh voted 10-0 to report House Bill No. 894 with amendments.

### **House Resolution No. 20 by Representative Tim Burns**

House Resolution No. 20 requires any legislative instrument with an estimated fiscal cost of \$100,000 or more annually of state general funds to be recommitted to the Appropriations Committee if reported by a different standing committee and removes the requirement that proposed constitutional amendments be recommitted to the Committee on Civil Law and Procedure. Representative Burns presented the proposed House Rule.

Ms. Patricia Lowrey-Dufour, senior legislative analyst, explained an amendment that would remove the proposed repeal of the rule requiring such recommitment to Civil Law and instead add a repeal of another rule requiring legislative instruments which establish a new felony or change the nature, elements, definition, or applicable penalties of an existing felony to be recommitted to the Committee on Administration of Criminal Justice. The proposed rule would become effective when adopted by the House of Representatives, meaning that it would not impact bills further along in the legislative process, she explained.

Representative Burns offered a motion that the amendment be adopted, to which there was no objection. Representatives Barras, Berthelot, Bishop, Brossett, Burns, Danahay, Jackson, Ligi, Miller, and Pugh voted 10-0 to adopt the amendments.

Representative Burns offered a motion that House Resolution No. 20 be reported with amendments. There was no objection to the motion, and Representatives Barras, Berthelot, Bishop, Brossett, Burns, Danahay, Gaines, Jackson, Ligi, Miller, and Pugh voted 11-0 to adopt the same.

## **IV. OTHER BUSINESS**

Ms. Patricia Lowrey-Dufour, senior legislative analyst, explained the procedure whereby the committee would at its next meeting interview candidates to fill the vacancies on the Board of Ethics to be elected thereafter by the House of Representatives.

**V. ANNOUNCEMENTS**

There were no announcements.

**VI. ADJOURNMENT**

The meeting was adjourned at 11:46 a.m.

Respectfully submitted,

Timothy G. Burns, Chairman  
Committee on House and Governmental Affairs

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Adopted: \_\_\_\_\_