

Regular Session, 2010

HOUSE BILL NO. 1202

BY REPRESENTATIVE GALLOT

ETHICS/CODE: Provides relative to appeals of decisions enforcing laws within the jurisdiction of the Board of Ethics

1 AN ACT

2 To enact R.S. 42:1142(F), relative to enforcement of laws within the jurisdiction of the  
3 Board of Ethics; to provide relative to decisions concerning such enforcement; to  
4 provide for appeal by the Board of Ethics of decisions of the Ethics Adjudicatory  
5 Board; to provide for the scope of review of such appeals; to provide that the Board  
6 of Ethics shall be responsible for the payment of the reasonable attorney fees and  
7 court costs of the other party for such appeals under certain circumstances; and to  
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 42:1142(F) is hereby enacted to read as follows:

11 §1142. Appeals

12 \* \* \*

13 F.(1) The Board of Ethics may appeal a final decision of the Ethics  
14 Adjudicatory Board on a question of law to the Court of Appeal, First Circuit, if  
15 application to the adjudicatory board is made within thirty days after the decision of  
16 the adjudicatory board becomes final.

17 (2) If the Board of Ethics appeals a final decision of the Ethics Adjudicatory  
18 Board and does not prevail in the final disposition of the appeal, the Board of Ethics  
19 shall be responsible for the payment of the reasonable attorney fees and court costs  
20 of the other party.

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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)]

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Gallot

HB No. 1202

**Abstract:** Allows the Board of Ethics to appeal decisions of the Ethics Adjudicatory Board on questions of law, but provides that if the board does not prevail in the final disposition of the appeal, it shall be responsible for the payment of the reasonable attorney fees and court costs of the other party.

Present law (Code of Governmental Ethics) provides for the Board of Ethics (BOE) and the Ethics Adjudicatory Board (EAB). Provides for the composition and the powers and duties of each board.

Present law (R.S. 42:1141) provides that the BOE receives complaints, conducts investigations concerning alleged violations of laws within its jurisdiction, and issues charges based on such alleged violations. Provides that the EAB conducts hearings on the charges to determine whether a violation has in fact occurred and, if a violation has occurred, determines what authorized penalties or other sanctions should be imposed.

Present law (R.S. 42:1142) provides that whenever action is taken against any public servant or person by the BOE or panel or by an agency head by order of the board or panel, or whenever any public servant or person is aggrieved by any action taken by the board or panel, he may appeal therefrom to the Court of Appeal, First Circuit, if application to the board is made within 30 days after the decision of the board becomes final. Provides that any refusal by the board or panel to issue a declaratory opinion or any preliminary, procedural, or intermediate action or ruling by the board or panel is subject to the supervisory jurisdiction of the appellate court as provided by Article V, Section 10 of the Const. of La.

Present law provides for appeals to the appropriate civil service commission for employees who have attained permanent status in the classified state or city civil service and to the appropriate higher education management board for a tenured public employee of a public institution of higher education.

Present law provides that a decision of the EAB or a panel thereof may be appealed under present law in the same manner as a decision of the BOE.

Present law (Administrative Procedure Act—R.S. 49: 964) provides that no agency or official thereof, or other person acting on behalf of an agency or official thereof shall be entitled to judicial review of an administrative adjudication.

Proposed law provides that the BOE may appeal a final decision of the EAB on a question of law to the Court of Appeal, First Circuit, if application to the adjudicatory board is made within 30 days after the decision of the adjudicatory board becomes final. Provides that if the BOE appeals a final decision of the EAB and does not prevail in the final disposition of the appeal, the BOE shall be responsible for the payment of the reasonable attorney fees and court costs of the other party.

(Adds R.S. 42:1142(F))