

Regular Session, 2010

HOUSE BILL NO. 240

BY REPRESENTATIVE DANAHAAY

ETHICS/BOARD: Provides relative to enforcement of laws within the jurisdiction of the Board of Ethics

1 AN ACT

2 To enact R.S. 42:1141(C)(4)(f) and to repeal R.S. 42:1141(C)(5), relative to enforcement of
3 laws within the jurisdiction of the Board of Ethics; to provide for the powers,
4 functions, and duties of the board relative to such enforcement; to provide for the
5 powers, functions, and duties of the Ethics Adjudicatory Board relative to such
6 enforcement; to provide relative to decisions of the Ethics Adjudicatory Board; and
7 to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 42:1141(C)(4)(f) is hereby enacted to read as follows:

10 §1141. Procedure; adjudicatory board

11 * * *

12 C. Investigation and hearing.

13 * * *

14 (4)

15 * * *

16 (f) The Ethics Adjudicatory Board shall issue the final decision or order,
17 whether or not on rehearing, and the Board of Ethics shall have no authority to
18 override such decision or order. Upon the issuance of such a final decision or order,
19 the Board of Ethics and each official and employee acting on behalf of the Board of
20 Ethics shall comply fully with and enforce the final order or decision.

1 Section 2. R.S. 42:1141(C)(5) is hereby repealed in its entirety.

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

Danahay

HB No. 240

Abstract: Repeals the requirement that the Board of Ethics adopt decisions of the Ethics Adjudicatory Board. Provides that the adjudicatory board shall issue the final decision, that the Board of Ethics shall have no authority to override the decision, and that the Board of Ethics and its officials and employees shall comply fully with and enforce the decision.

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. Provides that if the public hearing of the EAB fails to disclose clear and convincing evidence to support the charges, the EAB must make an official determination of its findings, and thereupon the BOE must close its file on the charges. Provides that if the EAB determines that a violation has occurred and prescribes authorized penalties or other sanctions, the BOE must, within 45 days of the issuance of the determination by the EAB, issue a decision adopting the determination of the EAB.

Proposed law repeals the requirement that the BOE adopt a decision of the EAB. Provides that the EAB shall issue the final decision or order, whether or not on rehearing, and the BOE shall have no authority to override such decision or order. Provides that upon the issuance of such a final decision or order, the BOE and each official and employee acting on behalf of the BOE shall comply fully with and enforce the final order or decision. Otherwise retains present law.

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

(Adds R.S. 42:1141(C)(4)(f); Repeals R.S. 42:1141(C)(5))