



**LOUISIANA REVISED STATUTES**  
**TITLE 49. STATE ADMINISTRATION**  
**CHAPTER 13-B. ADMINISTRATIVE PROCEDURE**

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## **PART I. GENERAL PROVISIONS**

### **§950. Title and form of citation**

This Chapter shall be known as the Administrative Procedure Act and may be cited as the Administrative Procedure Act.

Added by Acts 1982, No. 129, §1.

### **§951. Definitions**

As used in this Chapter:

(1) "Adjudication" means agency process for the formulation of a decision or order.

(2) "Adopt", "adopted", or "adoption", when pertaining to a fee in this Chapter, shall include action proposed by an agency to adopt, apply, assess, charge, implement, levy, or otherwise collect a fee pursuant to authorization by law that the agency may adopt, apply, assess, charge, implement, levy or otherwise collect such fee.



(3) "Agency" means each state board, commission, department, agency, officer, or other entity which makes rules, regulations, or policy, or formulates, or issues decisions or orders pursuant to, or as directed by, or in implementation of the constitution or laws of the United States or the constitution and statutes of Louisiana, except the legislature or any branch, committee, or officer thereof, any political subdivision, as defined in Article VI, Section 44 of the Constitution of Louisiana, and any board, commission, department, agency, officer, or other entity thereof, and the courts.

(4) "Decision" or "order" means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) of any agency, in any matter other than rulemaking, required by constitution or statute to be determined on the record after notice and opportunity for an agency hearing, and including non-revenue licensing, when the grant, denial, or renewal of a license is required by constitution or statute to be preceded by notice and opportunity for hearing.

(5) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(6) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency, except that an agency is a "person" for the purpose of appealing an administrative ruling in a disciplinary action brought pursuant to Title 37 of the Louisiana Revised Statutes of 1950 prior to the final adjudication of such disciplinary action.

(7) "Preamble" means a brief explanation of the basis and rationale for the intended administrative rulemaking action including a summary of the information and data supporting the intended action.

(8) "Rule" means each agency statement, guide, or requirement for conduct or action, exclusive of those regulating only the internal management of the agency and those purporting to adopt, increase, or decrease any fees imposed on the affairs, actions, or persons regulated by the agency, which has general applicability and the effect of implementing or interpreting substantive law or policy, or which prescribes the procedure or practice requirements of the agency. "Rule" includes, but is not limited to, any provision for fines, prices or penalties, the attainment or loss of preferential status, and the criteria or qualifications for licensure or certification by an agency. A rule may be of general applicability even though it may not apply to the entire state, provided its form is general and it is capable of being applied to every member of an identifiable class. The term includes the amendment or repeal of an existing rule but does not include declaratory rulings or orders or any fees.

(9) "Rulemaking" means the process employed by an agency for the formulation of a rule. Except where the context clearly provides otherwise, the procedures for adoption of rules and of emergency rules as provided in R.S. 49:961 shall also apply to adoption, increase, or decrease of fees. The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in an agency decision upon or disposition of a particular matter as applied to



a specific set of facts involved does not render the same a rule within this definition or constitute specific adoption thereof by the agency so as to be required to be issued and filed as provided in this Subsection.

Acts 1995, No. 1057, §1, eff. June 29, 1995 and Jan. 8, 1996 (1/8/96 date applicable to Dept. of Health and Hospitals only); Acts 1997, No. 1224, §1; Acts 2010, No. 775, §1, eff. June 30, 2010; Acts 2021, No. 211, §11; Acts 2022, No. 663, §1.

### **§952. Construction and effect; judicial cognizance**

A. Nothing in this Chapter shall be held to diminish the constitutional rights of any person or to limit or repeal additional requirements imposed by statute or otherwise recognized by law. Notwithstanding the foregoing, and except as provided in R.S. 49:954, any and all statutory requirements regarding the adoption or promulgation of rules other than those contained in R.S. 49:953, 961, 965, and 966 are hereby superseded by the provisions of this Chapter and are repealed. Except as otherwise required by law, all requirements or privileges relating to evidence or procedure shall apply equally to agencies and persons. Every agency is granted all authority necessary to comply with the requirements of this Chapter through the issuance of rules or otherwise.

B. If any provision of this Chapter or the application thereof is held invalid, the remainder of this Chapter or other applications of such provision shall not be affected. No subsequent legislation shall be held to supersede or modify the provisions of this Chapter except to the extent that such legislation shall do so expressly.

C. The courts of this state shall take judicial cognizance of rules promulgated in the Louisiana Register under the provisions of this Chapter.

D. Repealed by Acts 1978, No. 252, §3.

Acts 1966, No. 382, §16, eff. July 1, 1967. Amended by Acts 1979, No. 578, §§1, 2, eff. July 18, 1979; Acts 2013, No. 220, §23, eff. June 11, 2013; Acts 2014, No. 791, §18; Acts 2022, No. 663, §1; Redesignated from R.S. 49:966.

NOTE: Former R.S. 49:952 redesignated as R.S. 49:956 by Acts 2022, No. 663, §1.

### **§953. Louisiana Administrative Code and Louisiana Register; publication; distribution; copies; index; interagency rules**

A. The office of the state register shall compile, index, and publish a publication to be known as the Louisiana Administrative Code, containing all effective rules adopted by each agency subject to the provisions of this Chapter, and all boards, commissions, agencies, and departments of the executive branch, notwithstanding any other provision of law to the contrary. The office of the state register shall also publish all executive orders issued by the governor. The



Louisiana Administrative Code shall be supplemented or revised as often as necessary and at least once every two years.

B. The Office of the State Register shall publish at least once each month a bulletin to be known as the Louisiana Register which shall set forth the text of all rules filed during the preceding month and such notices as shall have been submitted pursuant to this Chapter. It shall also set forth all executive orders of the governor issued during the preceding month and a summary or digest of and fiscal note prepared for each such order as required by the provisions of R.S. 49:215. In addition, the Office of the State Register may include in the Louisiana Register digests or summaries of new or proposed rules; however, if any conflict should arise between the written digest of a rule and the rule, the rule shall take precedence over the written digest.

C. The Office of the State Register shall publish such rules, notices, statements, and other such matters as submitted by the rulemaking agency without regard to their validity. However, the Office of the State Register may omit from the Louisiana Register or Louisiana Administrative Code any rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the rule in printed or processed form is made available on application to the adopting agency, and if the Louisiana Register or Louisiana Administrative Code, as the case may be, contains a notice stating the general subject matter of the omitted rule and stating how a copy thereof may be obtained.

D. One copy, or multiple copies if practical, of the Louisiana Register and Louisiana Administrative Code shall be made available upon request to state depository libraries free of charge, and to other agencies or persons at prices fixed by the Office of the State Register to recover all or a portion of the mailing and publication costs. Notwithstanding the provisions of R.S. 49:951(2) to the contrary, the Office of the State Register shall provide free copies of the Louisiana Register and the Louisiana Administrative Code to the David R. Poynter Legislative Research Library, the Senate Law Library, and the Huey P. Long Memorial Law Library.

E. The Office of the State Register shall prescribe a uniform system of indexing, numbering, arrangement of text and citation of authority and history notes for the Louisiana Administrative Code.

F. The Office of the State Register may publish advertisements for bids and other legal notices in the Louisiana Register in addition to other publications thereof required by law.

G. The Office of the State Register is hereby authorized and empowered to promulgate and enforce interagency rules for the implementation and administration of this Section.

H. The governor shall be the publisher of the Louisiana Administrative Code and Louisiana Register provided for through the Office of the State Register.

Added by Acts 1974, No. 284, §1, eff. Jan. 1, 1975. Amended by Acts 1975, No. 730, §1; Acts 1976, No. 279, §1; Acts 1978, No. 252, §1; Acts 1982, No. 687, §1, eff. Aug. 2, 1982; Acts



1988, No. 604, §1, eff. July 14, 1988; Acts 1988, No. 937, §1, eff. July 26, 1988; Acts 1990, No. 9, §2; Acts 1993, No. 119, §1; Acts 2013, No. 220, §23, eff. June 11, 2013; Acts 2014, No. 791, §18; Acts 2022, No. 663, §1; Redesignated from R.S. 49:954.1.

NOTE: Former R.S. 49:953 redesignated as R.S. 49:961 by Acts 2022, No. 663, §1.

**§953.1. Redesignated as R.S. 49:962 by Acts 2022, No. 663, §1.**

**§954. Exemptions from provisions of Chapter**

A. This Chapter shall not be applicable to the Board of Tax Appeals, the Department of Revenue, with the exception of the Louisiana Tax Commission that shall continue to be governed by this Chapter in its entirety, unless otherwise specifically provided by law, and the administrator of the Louisiana Employment Security Law; however, the provisions of R.S. 49:951(2), (4), (5), (6), and (7), 953, 956, 961, 965, 966, 969, and 970 shall be applicable to the board, department, and administrator.

B.(1) The provisions of R.S. 49:966(F) and 970 shall not be applicable to any rule promulgated by the State Civil Service Commission or the Public Service Commission.

(2) The provisions of this Chapter shall not be applicable to entities created as provided in Part V of Chapter 6 of Title 34 of the Louisiana Revised Statutes of 1950.

C. The provisions of R.S. 49:968, 978.2, and 979 shall not be applicable to any rule, regulation, or order of any agency subject to a right of review under the provisions of R.S. 30:12.

D. The provisions of R.S. 49:968, 978.2, and 979 shall not apply to any rule, regulation, or policy and procedure statements issued by or for the Department of Public Safety and Corrections, corrections services, concerning:

(1) The internal management and daily operations of a correctional institute, probation and parole district office, or headquarters function.

(2) General law statements that are substantially repetitions of state or federal law.

(3) The implementation and processes for carrying out a court-ordered sentence of death and any and all matters related to the regulations for the sentence of death.

E. The provisions of R.S. 49:968, 978.2, and 979 shall apply only to the regulations and policies of the Department of Public Safety and Corrections, corrections services, that affect the substantial rights of, or administrative remedies available to, the public or any offender incarcerated in a state correctional facility or local jail facility.

Acts 1983, No. 409, §2. Acts 1984, No. 244, §1; Acts 1985, No. 869, §1, eff. July 23, 1985; Acts 1986, No. 494, §1; Acts 1990, No. 248, §1; Acts 1992, No. 53, §1; Acts 1997, No.



1172, §9, eff. June 30, 1997; Acts 1997, No. 1484, §1, eff. July 16, 1997; Acts 2010, No. 777, §3; Acts 2010, No. 889, §2; Acts 2022, No. 663, §1; Redesignated from R.S. 49:967.

NOTE: Former R.S. 49:954 redesignated as R.S. 49:965 by Acts 2022, No. 663, §1.

**§954.1. Redesignated as R.S. 49:953 by Acts 2022, No. 663, §1.**

**§954.2. Repealed by Acts 2004, No. 220, §1.**

NOTE: See Acts 2004, No. 220, §2, relative to validity and effectiveness of certain rules, permits, and licenses.

**§954.3. Redesignated as R.S. 49:963.1 by Acts 2022, No. 663, §1.**

**§955. Application of Chapter to rules and fees**

A.(1) The legislature recognizes that it is essential to the operation of a democratic government that prior to the adoption, amendment, or repeal of any rule or the adoption, increasing, or decreasing of any fee, that the provisions of this Chapter be followed, except as otherwise specifically excepted, exempted, or limited by law.

(2) The legislature further recognizes that it is essential to the operation of a democratic government that the people be made aware of all exceptions, exemptions, and limitations to this Chapter. In order to foster the people's awareness, the legislature declares that all exceptions, exemptions, and limitations to this Chapter pertaining to the adoption, amendment, or repeal of any rule or the adoption, increasing, or decreasing of any fee be cited or provided for in this Chapter or the Constitution of Louisiana.

B. The legislature further recognizes that there exist specific exceptions, exemptions, and limitations to the laws pertaining to the adoption, amendment, or repeal of any rule or the adoption, increasing, or decreasing of any fee throughout the revised statutes and codes of this state. Such exceptions, exemptions, and limitations are hereby continued in effect by incorporation into this Chapter by citation:

(1) R.S. 6:121.1(A), 121.3(A), 969.34, and 1092(F).

(2) R.S. 9:3552(C), 3556.2(A), and 3561(D)(2).

(3) R.S. 13:4202(B)(2).

(4) R.S. 18:1511.2(B).

(5) R.S. 22:1260.10(B).

(6) R.S. 27:220(C).





- (7) R.S. 29:788(C).
- (8) R.S. 30:4(I)(5), 918(B), and 925(A)(2) and (D).
- (9) R.S. 37:1806.1(B) and 3012(B)(1).
- (10) R.S. 40:5.3(B), 406(B)(1), and 600.6(A)(4)(b).
- (11) R.S. 49:258(1).
- (12) R.S. 51:1285(A), 1929.1(A), 2389.1(A), and 3090.
- (13) R.S. 56:319(D) and 2014.

C. The legislature further recognizes that there exist provisions of law which authorize an agency to adopt, increase, or decrease a fee without specifically providing that such action shall be taken in accordance with this Chapter. Any action taken pursuant to such authorization shall be in accordance with this Chapter, unless it is specifically otherwise excepted, exempted, or limited in the Constitution of Louisiana or in law.

D. The provisions of this Chapter relative to fees shall not be applicable to a higher education management board created by Article VIII, Section 6, 7, or 7.1 of the Constitution of Louisiana.

Acts 2010, No. 775, §1, eff. June 30, 2010; Acts 2022, No. 663, §1; Redesignated from R.S. 49:967.1.

NOTE: Former R.S. 49:955 redesignated as R.S. 49:975 by Acts 2022, No. 663, §1.

### **§956. Public information; adoption of rules; availability of rules and orders**

Each agency which engages in rulemaking shall:

(1) File with the Office of the State Register a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests.

(2) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available.

(3) Make available for public inspection all rules, preambles, responses to comments, and submissions and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions and publish an index of such rules,



preambles, responses to comments, submissions, statements, and interpretations on a regular basis.

(4) Make available for public inspection all final orders, decisions, and opinions.

Acts 1966, No. 382, §2, eff. July 1, 1967. Amended by Acts 1978, No. 252, §1; Acts 1979, No. 578, §1, eff. July 18, 1979; Acts 1990, No. 1085, §1, eff. July 31, 1990; Acts 1993, No. 386, §1; Acts 2013, No. 220, §23, eff. June 11, 2013; Acts 2022, No. 663, §1; Redesignated from R.S. 49:952.

NOTE: Former R.S. 49:956 redesignated as R.S. 49:975.1 by Acts 2022, No. 663, §1.

**§956.1. Redesignated as R.S. 49:975.2 by Acts 2022, No. 663, §1.**

**§957. Internet publication of certain information concerning proposed rules and fees; information required to be published; manner of publication; deadlines**

A.(1) Each agency shall include on its Internet website the information required by Subsection B of this Section.

(2)(a) If an agency does not have an Internet website, the department of which the agency is a part shall include the information required by Subsection B of this Section for the agency on the website of the department.

(b) If an agency in the office of the governor does not have an Internet website, the division of administration shall include the information required by Subsection B of this Section for the agency on the Internet website of the division of administration.

B. All of the following information shall be included on the website:

(1) A brief description of each rule or fee that the agency is in the process of adopting, amending, or repealing. For each rule or fee, links to the following shall be included:

(a) The full text of the current rule or fee.

(b) A link to the Louisiana Register website showing the proposed rule or statement of the proposed fee.

(c) The name and contact information of the agency representative responsible for responding to inquiries about the intended action as required by R.S. 49:961(A)(2)(d).

(d) The time when, the place where, and the manner in which interested persons may present public comment concerning the intended action as required by R.S. 49:961(A)(2)(e).

(e) The anticipated effective date for the proposed rule or fee.



(f) A copy of the notice of intent submitted to the Louisiana Register pursuant to R.S. 49:961(A)(3) and the date the notice of intent will be published in the Louisiana Register.

(g) A copy of the report submitted to the legislative oversight subcommittees pursuant to R.S. 49:966(D)(1)(b) and a copy of the public notice required by R.S. 49:966(D)(1)(c).

(h) A copy of any announcement of a hearing and report made pursuant to R.S. 49:966(H)(2).

(i) A copy of any report received by the agency from a legislative oversight subcommittee pursuant to R.S. 49:966(F) or from the governor pursuant to R.S. 49:966(I).

(2) A copy of the annual report submitted to the legislative oversight subcommittees by the agency pursuant to R.S. 49:966(K).

C.(1)(a) The information required to be published pursuant to Subparagraphs (B)(1)(a) through (g) of this Section shall be published in the manner required by this Section no later than five days after the date on which the agency submits the report for the proposed rule or fee to the legislative oversight subcommittees pursuant to R.S. 49:966(B).

(b) The copy of the announcement required to be published pursuant to Subparagraph (B)(1)(h) of this Section shall be published in the manner required by this Section no later than five days after the announcement is submitted to the Louisiana Register in accordance with R.S. 49:966(H)(2).

(c) The copy of the report required to be published pursuant to Subparagraph (B)(1)(i) of this Section shall be published in the manner required by this Section no later than five days after the report is received by the agency.

(d) The copy of the annual report required to be published pursuant to Paragraph (B)(2) of this Section shall be published in the manner required by this Section no later than five days after the report is submitted to the legislative oversight subcommittees by the agency pursuant to R.S. 49:966(K).

(2) If an agency does not have an internet website, the agency shall submit the information required by this Section to be published to the department or to the division of administration, as the case may be, in a manner which allows enough time for the information to be published as required by this Section prior to the applicable deadline provided in Paragraph (1) of this Subsection.

D.(1) All of the information required to be published pursuant to this Section shall be archived for a minimum of one year following the date of publication.



(2) Each agency, department, or the division of administration, as the case may be, shall include on its Internet home page a link to the information required to be published pursuant to this Section.

E. The provisions of this Section shall not be construed to require the publication of information concerning the adoption, amendment, or repeal of any rule or fee unless and until the agency gives notice of its intended action pursuant to R.S. 49:961(A).

Acts 2014, No. 401, §1, eff. Jan. 1, 2015; Acts 2022, No. 663, §1; Redesignated from R.S. 49:974.

NOTE: Former R.S. 49:957 redesignated as R.S. 49:976 by Acts 2022, No. 663, §1.

**§958. Redesignated as R.S. 49:977 by Acts 2022, No. 663, §1.**

**§959. Redesignated as R.S. 49:977.1 by Acts 2022, No. 663, §1.**

**§960. Redesignated as R.S. 49:977.2 by Acts 2022, No. 663, §1.**

## **PART II. RULE PROMULGATION**

### **§961. Procedure for adoption of rules**

A.(1) An agency shall give notice of its intention to adopt, amend, or repeal any rule and a copy of the proposed rules at least ninety days prior to taking action on the rule.

(2) The notice shall include all of the following:

(a) A statement by the agency clearly describing the proposed action being taken.

(b) A statement by the legislative fiscal office on whether the proposed action will result in a fiscal impact.

(c) A statement by the legislative fiscal office on whether the proposed action will result in an economic impact.

(d) The name of the agency representative responsible for responding to inquiries about the intended action.

(e) The time, place, and manner in which interested persons may present public comment regarding the intended action.

(f) A statement that the intended action complies with the statutory law administered by the agency, including a citation of the enabling legislation.



(g) A preamble explaining the basis and rationale for the intended action and summarizing the information and data supporting the intended action.

(h) All of the following statements concerning the proposed action:

(i) The impact on family formation, stability, and autonomy required by R.S. 49:972.

(ii) The impact on child, individual, or family poverty in relation to individual or community asset development required by R.S. 49:973.

(iii) The economic impact on small businesses required by R.S. 49:974.4.

(iv) The small business regulatory flexibility analysis required by R.S. 49:974.5.

(3) The notice shall be published at least once in the Louisiana Register and shall be submitted with a full text of the proposed rule to the Louisiana Register at least one hundred days prior to the date the agency will take action on the rule.

(4) After the notice is published in the Louisiana Register, the agency shall make available copies of the full text of the proposed rule no later than two working days after receiving a written request.

(5) Notice of the intent of an agency to adopt, amend, or repeal any rule and the approved fiscal and economic impact statements shall be transmitted to all persons who have made timely request of the agency for notice. The notice and statements shall be transmitted at the earliest possible date, but not later than ten days after the date when the proposed rule change is submitted to the Louisiana Register.

(6) For the purpose of this Subsection, the date of notice is the date of publication of the issue of the Louisiana Register in which the notice appears as stated on the outside cover or the first page of the issue.

B.(1) The agency shall afford all interested persons a reasonable opportunity to submit data, views, comments, or arguments, orally or in writing. In the case of substantive rules, the agency shall grant an opportunity for oral presentation or argument if requested within twenty days after publication of the rule pursuant to Subsection A of this Section by twenty-five persons, by a governmental subdivision or agency, by an association having not less than twenty-five members, or by a committee of either house of the legislature to which the proposed rule change has been referred pursuant to R.S. 49:966.

(2) Any hearing held pursuant to the provisions of Paragraph (1) of this Subsection shall be held no earlier than thirty-five days and no later than forty-five days after the publication of the Louisiana Register in which the notice of the intended action appears.



(3) The agency shall consider fully all written and oral comments and submissions respecting the proposed rule. The agency shall respond to the comments and submissions describing the principal reasons for and against adoption of any amendments or changes suggested in the written or oral comments and submissions.

(4) The response required by Paragraph (3) of this Subsection shall be furnished to the respective legislative oversight subcommittees at least five days prior to the day the legislative oversight subcommittee hearing is to be held on the proposed rule and shall be made available to interested persons no later than one day following their submission to the appropriate legislative oversight subcommittee. If no legislative oversight hearing is to be held, the agency shall send its response to comments or submissions on the rule to any person who presented comments or submissions on the rule and to any requesting person not later than fifteen days prior to the time of publication of the final rule.

(5) The agency shall, upon request, make available to interested persons the report submitted pursuant to R.S. 49:966(D) no later than one working day following the submittal of such report to the legislative oversight subcommittees.

C.(1) The statement of fiscal impact shall be prepared by the proposing agency and submitted to the legislative fiscal office for its approval. The fiscal impact statement shall include a statement of the receipt, expenditure, or allocation of state funds or funds of any political subdivision of the state.

(2) The statement of economic impact shall be prepared by the proposing agency and submitted to the legislative fiscal office for its approval. The economic impact statement shall include an estimate of the cost to the agency to implement the proposed action, including the estimated amount of paperwork; an estimate of the cost or economic benefit to all persons directly affected by the proposed action; an estimate of the impact of the proposed action on competition and the open market for employment, if applicable; and a detailed statement of the data, assumptions, and methods used in making each of the above estimates.

D. When a rule is adopted, amended, or repealed in compliance with federal regulations, the adopting agency's notice of intent and the actual text of the rule as published in the Louisiana Register shall be accompanied by a citation of the volume, number, date, and page number of the Federal Register issue in which the determining federal regulation is published.

E.(1) No agency shall adopt, amend, or repeal any rule if the accompanying fiscal and economic impact statement approved by the legislative fiscal office indicates that the rule change would result in any increase in the expenditure of state funds, unless the rule is adopted as an emergency rule pursuant to the requirements of R.S. 49:962 or unless the legislature has specifically appropriated the funds necessary for the expenditures associated with the rule change.



(2) The fiscal and economic impact statement shall be summarized by the agency as to the estimated costs or economic benefits, or both, to directly affected persons, small businesses, or nongovernmental groups, and the summary shall be published in the Louisiana Register.

(3) No later than the tenth day of the month, the office of the state register shall electronically transmit to the commercial division of the Department of State the summary of the fiscal and economic impact statement.

F.(1) No later than the tenth day of the month, the office of the state register shall electronically transmit to the commercial division of the Department of State all of the following information:

(a) The small business economic impact statement prepared by the agency pursuant to R.S. 49:974.4 and the small business regulatory flexibility analysis prepared pursuant to R.S. 49:974.5.

(b) The summary of the estimated costs to small businesses, citizens, and nongovernmental groups as provided in Subsection E of this Section.

(c) Any potpourri notices which are submitted to the office of the state register pursuant to R.S. 49:974.4.

(2) Prior to electronically sending the information required in this Subsection and Subsection E of this Section to the commercial division of the Department of State, the office of the state register shall divide the information by agency.

Acts 1966, No. 382, §3, eff. July 1, 1967. Amended by Acts 1974, No. 284, §1, eff. Jan. 1, 1975; Acts 1975, No. 730, §1; Acts 1976, No. 279, §1; Acts 1978, No. 252, §1; Acts 1980, No. 392, §1. Acts 1983, No. 713, §1; Acts 1984, No. 953, §1; Acts 1985, No. 371, §1, eff. July 9, 1985; Acts 1986, 1st Ex. Sess., No. 11, §1, eff. Jan. 1, 1987; Acts 1987, No. 853, §1; Acts 1990, No. 1063, §1; Acts 1990, No. 1085, §§1 and 2, eff. July 31, 1990; Acts 1991, No. 104, §1, eff. June 30, 1991; Acts 1993, No. 119, §1; Acts 1993, No. 274, §1; Acts 1993, No. 386, §1; Acts 1995, No. 512, §1; Acts 1995, No. 642, §1; Acts 1995, No. 1057, §1, eff. June 29, 1995 and Jan. 8, 1996 (1/8/96 date applicable to Dept. of Health and Hospitals only); Acts 1996, 1st Ex. Sess., No. 36, §3, eff. May 7, 1996; Acts 1999, No. 1183, §1; Acts 2008, No. 580, §6; Acts 2010, No. 777, §1; Acts 2012, No. 781, §1, eff. June 13, 2012; Acts 2012, No. 854, §1, eff. Jan. 1, 2013; Acts 2013, No. 220, §23, eff. June 11, 2013; Acts 2014, No. 791, §18; Acts 2018, No. 454, §1, eff. January 1, 2019; Acts 2019, No. 204, §1, eff. Feb. 1, 2020; Acts 2020, No. 153, §1; Acts 2021, No. 211, §§11, 13; Acts 2022, No. 663, §1; Redesignated from R.S. 49:953.

NOTE: Former R.S. 49:961 redesignated as R.S. 49:977.3 by Acts 2022, No. 663, §1.

## **§962. Emergency rulemaking**



A.(1) In extraordinary circumstances, an agency may adopt an emergency rule as an alternative to the rulemaking provisions provided for in R.S. 49:961. An emergency rule may be adopted by an agency without prior notice or a public hearing for any of the following reasons:

- (a) To prevent imminent peril to the public health, safety, or welfare.
- (b) To avoid sanctions or penalties from the United States.
- (c) To avoid a budget deficit in the case of the medical assistance program.
- (d) To secure new or enhanced federal funding.

(e) To effectively administer provisions of law related to the imposition, collection, or administration of taxes when required due to time constraints related to congressional, legislative, or judicial action.

(2) It shall not be considered an emergency if the agency is acting in the normal course and scope of fulfilling its mission, failed to take necessary steps in the administration of the agency to avoid an emergency, is promulgating rules to implement an Act of the legislature unless the Act specifically directed the agency to proceed with emergency rulemaking, or is continually republishing existing emergency rules.

(3) Subject to applicable constitutional or statutory provisions, an emergency rule shall become effective on the date of its adoption, or on a date specified by the agency to be not more than sixty days from the date of its adoption, provided written notice is given as required by Subsection B of this Section.

(4) An emergency rule shall not remain in effect beyond the publication date of the Louisiana Register published in the month following the month in which the emergency rule is adopted, unless the emergency rule and the reasons for adoption are published in that issue. An emergency rule shall not be effective for a period longer than one hundred eighty days.

(5) No emergency rule shall be adopted by an agency more than two consecutive times unless the agency is operating under a state or federal declaration of disaster, a state or federal public health emergency, or an ongoing emergency as authorized by the legislature, governor, or other provision of law. However, the agency may concurrently proceed with the adoption of an identical rule pursuant to the procedure provided for in R.S. 49:961(A).

B.(1) No later than five days after the adoption of an emergency rule, the agency shall provide notice in writing of its emergency action along with a copy of the emergency rule. The notice shall contain, at a minimum, all of the following:

(a) A preamble which states the specific provision or provisions of Paragraph (A)(1) of this Section the agency is citing as cause for emergency rulemaking and the specific facts and





detailed reasoning for emergency rulemaking in order to satisfy the criteria for an emergency rule.

(b) The name of the person within the agency who has the responsibility for responding to inquiries about the action.

(c) A statement that the intended action complies with the statutory law administered by the agency, including a citation of the enabling legislation.

(2)(a) The notice required in Paragraph (1) of this Subsection shall be transmitted to the governor of the state of Louisiana, the attorney general, the speaker of the House of Representatives, the president of the Senate, and the office of the state register in accordance with each entity's transmittal policy.

(b) No later than five days after the adoption of the emergency rule, the agency shall transmit a copy of the notice required in Paragraph (1) of this Subsection to all persons who have made timely request of the agency for notice of rule changes.

(3) The office of the state register may omit from the Louisiana Register any emergency rule which would be unduly cumbersome, expensive, or otherwise inexpedient to print, if the emergency rule in printed or processed form is made available on application to the adopting agency, and if the Louisiana Register contains a notice stating the general subject matter of the omitted emergency rule, the reasons for the finding of the emergency submitted by the agency, and how a copy may be obtained.

C. The validity of an emergency rule may be determined in an action for declaratory judgment in the district court of the parish in which the agency is located. The agency shall be made a party to the action. An action for a declaratory judgment under this Section may be brought only by a person to whom such emergency rule is applicable or who would be adversely affected by such emergency rule and only on the grounds that the emergency rule does not meet the criteria for adoption of an emergency rule as provided in Paragraph (A)(1) of this Section. The court shall declare the emergency rule invalid if it finds that there is not sufficient evidence that such emergency rule must be adopted on an emergency basis for one or more of the reasons for adoption of an emergency rule as provided in Subsection A of this Section. Notwithstanding any provision of law to the contrary, the emergency rule shall remain in effect until such declaratory judgment is rendered. The provisions of R.S. 49:968 shall not apply to any action brought pursuant to this Section. The provisions of this Section are in addition to R.S. 49:968 and shall not limit any action pursuant to R.S. 49:968.

D.(1) Within sixty days after receipt of the emergency rule and agency notice required in Subsection B of this Section by the presiding officer of either the House of Representatives or the Senate, an oversight subcommittee of either house may individually or jointly conduct a hearing to review the emergency rule and make a determination of whether the emergency rule meets the criteria for an emergency rule set forth in Subsection A of this Section. The oversight subcommittee shall also make the following determinations:



(a) Whether the emergency rule is in conformity with the intent and scope of the enabling legislation purporting to authorize the emergency rule.

(b) Whether the emergency rule is in conformity with and not contrary to all applicable provisions of law and of the constitution.

(c) The advisability or relative merit of the emergency rule.

(d) Whether the emergency rule is acceptable or unacceptable to the oversight subcommittee.

(2)(a) If within sixty days after receipt of the emergency rule and agency notice required in Subsection B of this Section either the House or Senate oversight committee determines that an emergency rule is unacceptable, the respective subcommittee shall provide a written report which contains the following:

(i) A copy of the emergency rule.

(ii) A summary of the determinations made by the oversight committee.

(b) The written report shall be delivered to the governor, the agency proposing the rule change, and the Louisiana Register no later than four days after the oversight committee makes its determination.

(3) If an emergency rule is determined to be unacceptable by an oversight committee, the agency shall not propose a rule change or emergency rule that is the same as or substantially similar to the disapproved emergency rule within four months after issuance of a written report by the subcommittee issued pursuant to this Subsection, nor more than once during the interim between regular sessions of the legislature.

E. Within sixty days after adoption of an emergency rule, the governor may review such emergency rule and make the determinations as provided in Subsection D of this Section. If within this time period the governor finds an emergency rule unacceptable, he shall prepare a written report as provided in Paragraph (D)(2) of this Section and transmit copies to the agency proposing the emergency rule and the Louisiana Register no later than four days after the governor makes his determination.

F. Upon receipt by the agency of a report issued by the oversight subcommittee or the governor finding an emergency rule unacceptable, the emergency rule shall be nullified and shall be without effect. The governor shall have no authority to disapprove the action taken on an emergency rule by the oversight subcommittee.

G. The Department of Wildlife and Fisheries and the Louisiana Wildlife and Fisheries Commission may employ the timetables and provisions of this Section in promulgating rules and



regulations relative to hunting seasons, trapping seasons, alligator seasons, shrimp seasons, oyster seasons, and finfish seasons and size limits, and all rules and regulations pursuant thereto. Rules adopted annually pursuant to this Subsection which open and close the offshore and fall shrimp seasons, the oyster seasons, the marine finfish seasons, the webless migratory game bird hunting season, and the trapping season shall be effective for the duration of the respective season. Notwithstanding the provisions of Subsection D of this Section, any legislative oversight hearing held on a rule proposed under the provisions of this Subsection shall be held no earlier than five days and no later than thirty days following the date of adoption of the rule.

Acts 2021, No. 211, §11; Acts 2022, No. 663, §1; Redesignated from R.S. 49:953.1.

NOTE: Former R.S. 49:962 redesignated as R.S. 49:977.4 by Acts 2022, No. 663, §1.

**§962.1. Redesignated as R.S. 49:978 by Acts 2022, No. 663, §1.**

**§963. Department of Environmental Quality; procedure for adoption of rules**

A.(1) Notwithstanding any other provision of this Chapter to the contrary, if the Department of Environmental Quality proposes a rule that is not identical to a federal law or regulation or is not required for compliance with a federal law or regulation, the department shall do all of the following:

(a) Adopt and promulgate the proposed rule separately from any proposed rule or set of proposed rules that is identical to a federal law or regulation or required for compliance with a federal law or regulation, unless the only difference between the proposed rule or set of proposed rules and the corresponding federal law or regulation is a proposed fee. For purposes of this Subsection, the term "identical" shall mean that the proposed rule has the same content and meaning as the corresponding federal law or regulation.

(b)(i) Provide a brief summary which explains the basis and rationale for the proposed rule; identifies the data and evidence, if any, upon which the rule is based; and identifies any portions of the proposed rule that differ from federal law or regulation if there is a federal law or regulation which is not identical but which corresponds substantially to the proposed rule.

(ii) The summary shall be provided along with the notice of intent and shall be published in the Louisiana Register or made available along with the proposed rule as provided in R.S. 49:961(A)(4). The department may also provide the summary when proposing a rule identical to a corresponding federal law or regulation or proposing a rule which is required for compliance with federal law or regulation to explain the basis and rationale for the proposed rule.

(2) Notwithstanding any other provision of this Chapter to the contrary, when the department proposes a rule that is identical to a federal law or regulation applicable in Louisiana, except as provided in Paragraph (3) of this Subsection, it may use the following procedure for the adoption of the rule:



(a) The department shall publish a notice of the proposed rule at least sixty days prior to taking action on the rule as provided below. The notice, which may include an explanation of the basis and rationale for the proposed rule, shall include all of the following:

(i) A statement of either the terms or substance of the intended action or a description of the subjects and issues involved.

(ii) A statement that no fiscal or economic impact will result from the proposed rule.

(iii) The name of the person within the department who has responsibility for responding to inquiries about the intended action.

(iv) The time, place, and manner in which interested persons may present their views including the notice for a public hearing required by R.S. 30:2011(D)(1).

(v) A statement that the intended action complies with the law administered by the department, including a citation of the specific provisions of law which authorize the proposed rule.

(b) Notice of the proposed rule shall be published at least once in the Louisiana Register and shall be submitted with a full text of the proposed rule to the Louisiana Register at least seventy days prior to the date the department proposes to formally adopt the rule. The office of the state register may omit from the Louisiana Register any proposed rule, the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the Louisiana Register contains a notice stating the general subject matter of the omitted proposed rule, the process being employed by the department for adoption of the proposed rule, and how a copy of the proposed rule may be obtained.

(c) Notice of the intent of the department to adopt the rule shall be transmitted to all persons who have made timely request for notice at the earliest possible date, and in no case later than ten days after the date when the proposed rule is submitted to the Louisiana Register.

(d) For the purposes of this Paragraph, the date of notice is the date of publication of the issue of the Louisiana Register in which the notice appears as stated on the outside cover or the first page of the issue.

(e) The department shall afford all interested persons an opportunity to submit data, views, comments, or arguments related to the proposed rule, in writing, during a period of no less than thirty days. The department shall consider fully all written comments and submissions respecting the proposed rule.

(f) The department shall make available to all interested persons copies of the proposed rule from the time the notice of its adoption is published in the Louisiana Register.



(g) The department shall issue a response to comments and submissions describing the principal reasons for and against adoption of any amendments or changes suggested in the written comments and submissions and specifically addressing any assertion that the proposed rule is not identical to the federal law or regulation upon which it is based. The department shall issue the response to comments and submissions to any person who presented comments or submissions on the rule and to any requesting person no later than fifteen days prior to the time of publication of the final rule.

(h) No later than fifteen days prior to the time of publication of the final rule in the Louisiana Register, the secretary or any authorized assistant secretary of the department shall do each of the following:

(i) Certify under oath, to the governor of the state of Louisiana, the attorney general of Louisiana, the speaker of the House of Representatives, the president of the Senate, the chairman of the House Committee on Natural Resources and Environment, the chairman of the Senate Committee on Environmental Quality, and the office of the state register that the proposed rule is identical to a specified federal law or regulation applicable in Louisiana.

(ii) Furnish the chairman of the Senate Committee on Environmental Quality and the chairman of the House Committee on Natural Resources and Environment the response to comments and submissions required under Subparagraph (g) of this Paragraph, together with a copy of the notice required under Subparagraph (a) of this Paragraph.

(i) Unless specifically requested, in writing, by the chairman of the House Committee on Natural Resources and Environment or the chairman of the Senate Committee on Environmental Quality within ten days of the certification provided under Subparagraph (h) of this Paragraph, there shall be no legislative oversight of the proposed rule. If, however, legislative oversight is properly requested, R.S. 49:961(B)(2) and (3) and 966 shall thereafter apply with respect to the proposed rule.

(j) In the absence of legislative oversight, the proposed rule may be adopted by the department no earlier than sixty days, nor later than twelve months, after the official notice of the proposed rule was published in the Louisiana Register. The proposed rule shall be effective upon its publication in the Louisiana Register subsequent to the act of adoption.

(3) The procedures set forth in Paragraph (2) of this Subsection for the adoption by the department of rules identical to federal laws or regulations applicable in Louisiana shall not be available for the adoption of any rules creating or increasing fees.

B.(1) Prior to or concurrent with publishing notice of any proposed policy, standard, or regulation pursuant to Subsection A of this Section and prior to promulgating any policy, standard, or final regulation whether pursuant to R.S. 49:965 or otherwise under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the department shall publish a report, or a summary of the report, in the Louisiana Register which includes:



(a) A statement identifying the specific risks being addressed by the policy, standard, or regulation and any published, peer-reviewed scientific literature used by the department to characterize the risks.

(b) A comparative analysis of the risks addressed by the policy, standard, or regulation relative to other risks of a similar or analogous nature to which the public is routinely exposed.

(c) An analysis based upon published, readily available peer-reviewed scientific literature, describing how the proposed and final policy, standard, or regulation will advance the purpose of protecting human health or the environment against the specified identified risks.

(d) An analysis and statement that, based on the best readily available data, the proposed or final policy, standard, or regulation presents the most cost-effective method practically achievable to produce the benefits intended regarding the risks identified in Subparagraph (a) of this Paragraph.

(2) No regulation shall become effective until the secretary complies with the requirements of Paragraph (1) of this Subsection.

(3) This provision shall not apply in those cases where the policy, standard, or regulation meets one or more of the following criteria:

(a) Is required for compliance with a federal law or regulation.

(b) Is identical to a federal law or regulation applicable in Louisiana.

(c) Will cost the state and affected persons less than one million dollars, in the aggregate, to implement.

(d) Is an emergency rule under R.S. 49:962.

(4) For purposes of this Subsection, the term "identical" shall mean that the proposed rule has the same content and meaning as the corresponding federal law or regulation.

(5) In complying with this Section, the department shall consider any scientific and economic studies or data timely provided by interested parties which are relevant to the issues addressed and the proposed policy, standard, or regulation being considered.

Acts 2022, No. 663, §1.

NOTE: Former R.S. 49:963 redesignated as R.S. 49:968 by Acts 2022, No. 663, §1.

### **§963.1. Environmental Regulatory Code**



The Department of Environmental Quality shall codify its rules and regulations in effect on March 1, 1992, in the Environmental Regulatory Code, and thereafter, shall update such codification of its rules and regulations on a quarterly basis. The secretary shall complete and offer for sale at cost the initial codification within one hundred and eighty days from March 1, 1992.

Acts 1991, No. 735, §2, eff. July 18, 1991; Acts 2022, No. 663, §1; Redesignated from R.S. 49:954.3.

#### **§964. Public request for the adoption, amendment, or repeal of a rule; agency rule review**

A. An interested person may petition an agency requesting the adoption, amendment, or repeal of a rule. Each agency shall prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking proceedings in accordance with this Chapter. Each agency with an appropriated operating budget of five million dollars or more shall include on its website a description of the procedure for submitting petitions in accordance with this Subsection.

B.(1) At least once prior to January 1, 2020, and at least once during every six-year period thereafter, each agency subject to Subsection A of this Section which engages in rulemaking shall conduct a public hearing for the purpose of allowing any interested person the opportunity to comment on any rule of the agency which the person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome. The agency shall publish notice of the meeting in the Louisiana Register, give notice of the meeting electronically to the appropriate legislative oversight committees, and provide notice of the meeting to all persons who have made timely request of the agency for notice of rule changes, all no later than thirty days prior to the meeting.

(2) The notice of the meeting shall contain:

(a) The name of the agency.

(b) The purpose of the meeting.

(c) The time and place of the meeting.

(d) The process for requesting reasonable accommodations for persons with disabilities.

(e) The name and contact information of the person within the agency to whom interested persons should direct their views regarding the agency's rules, if in writing, and the deadline for submission of written comments.

(3) The agency shall consider fully all written and oral comments and submissions concerning its rules. The agency shall advise persons who provide oral comments that in order to



be submitted to the legislative oversight committees, comments must be submitted to the agency in writing. The agency shall issue a response to each submission describing the principal advantages and disadvantages of the rule changes suggested in the submission. In addition, the agency may prepare a statement explaining the basis and rationale for the rule in question identifying the data and evidence upon which the rule is based. All such statements and responses to submissions shall be furnished to the respective legislative oversight committees in the manner provided by R.S. 49:966(K) and shall be made available to interested persons as soon as possible but no later than one day following their submission to the appropriate legislative oversight committees.

C. Any interested person may request review of an occupational regulation by submitting a petition to the occupational licensing board that issued the regulation. An occupational licensing board shall review a regulation provided for in the petition for full compliance with the least restrictive regulation as set forth in R.S. 37:43 or R.S. 49:260, as applicable.

Acts 2022, No. 583, §2; Acts 2022, No. 663, §1.

NOTE: Former R.S. 49:964 redesignated as R.S. 49:978.1 by Acts 2022, No. 663, §1.

**§964.1. Redesignated as R.S. 49:978.2 by Acts 2022, No. 663, §1.**

### **§965. Filing; taking effect of rules**

A. No rule adopted is valid unless adopted in substantial compliance with this Chapter. Each rulemaking agency shall file a certified copy of its rules with the office of the state register. No rule shall be effective, nor may it be enforced, unless it has been properly filed with the office of the state register. No rule adopted shall be effective, nor may it be enforced, unless prior to its adoption a report relative to the proposed rule change is submitted to the appropriate standing committee of the legislature or to the presiding officers of the respective houses as provided in R.S. 49:966. No rule shall be effective, nor may it be enforced, unless the approved economic and fiscal impact statements, as provided in R.S. 49:961, have been filed with the office of the state register and published in the Louisiana Register. The inadvertent failure to mail notice and statements to persons making request for such mail notice, as provided in R.S. 49:961, shall not invalidate any rule adopted hereunder. A proceeding under R.S. 49:968 to contest any rule on the grounds of noncompliance with the procedures for adoption, as given in this Chapter, must be commenced within two years from the date upon which the rule became effective.

B.(1) Each rule hereafter adopted shall be effective upon its publication in the Louisiana Register, said publication to be subsequent to the act of adoption, except that if a later date is required by statute or specified in the rule, the later day is the effective date.

(2) An emergency rule shall be considered effective pursuant to the provisions of R.S. 49:962.





Acts 1966, No. 382, §4, eff. July 1, 1967. Amended by Acts 1968, No. 474, §1; Acts 1974, No. 284, §1, eff. Jan. 1, 1975; Acts 1975, No. 730, §1; Acts 1978, No. 252, §1; Acts 1980, No. 392, §1; Acts 1990, No. 248, §1; Acts 1990, No. 1085, §1, eff. July 31, 1990; Acts 2013, No. 220, §23, eff. June 11, 2013; Acts 2014, No. 791, §18; Acts 2021, No. 211, §11; Acts 2022, No. 663, §1; Redesignated from R.S. 49:954.

NOTE: Former R.S. 49:965 redesignated as R.S. 49:979 by Acts 2022, No. 663, §1.

**§965.1. Redesignated as R.S. 49:980 by Acts 2022, No. 663, §1.**

**§965.2. Redesignated as R.S. 49:978.1 pursuant to Acts 2019, No. 204, §2(A), eff. Feb. 1, 2020.**

Acts 2008, No. 820, §1; Acts 2019, No. 204, §2(A), eff. Feb. 1, 2020.

**§965.3. Redesignated as R.S. 49:978.2 pursuant to Acts 2019, No. 204, §2(A), eff. Feb. 1, 2020.**

Acts 2008, No. 820, §1; Acts 2019, No. 204, §2(A), eff. Feb. 1, 2020.

**§965.4. Redesignated as R.S. 49:978.3 pursuant to Acts 2019, No. 204, §2(A), eff. Feb. 1, 2020.**

Acts 2008, No. 820, §1; Acts 2010, No. 861, §21; Acts 2019, No. 204, §2(A), eff. Feb. 1, 2020.

**§965.5. Redesignated as R.S. 49:978.4 pursuant to Acts 2019, No. 204, §2(A), eff. Feb. 1, 2020.**

Acts 2008, No. 820, §1; Acts 2019, No. 204, §2(A), eff. Feb. 1, 2020.

**§965.6. Redesignated as R.S. 49:978.5 pursuant to Acts 2019, No. 204, §2(A), eff. Feb. 1, 2020.**

Acts 2008, No. 820, §1; Acts 2019, No. 204, §2(A), eff. Feb. 1, 2020.

**§965.7. Redesignated as R.S. 49:978.6 pursuant to Acts 2019, No. 204, §2(A), eff. Feb. 1, 2020.**

Acts 2008, No. 820, §1; Acts 2019, No. 204, §2(A), eff. Feb. 1, 2020.

**§965.8. Redesignated as R.S. 49:978.7 pursuant to Acts 2019, No. 204, §2(A), eff. Feb. 1, 2020.**



Acts 2008, No. 820, §1; Acts 2019, No. 204, §2(A), eff. Feb. 1, 2020.

### **§966. Review of agency rules; fees**

A. It is the declared purpose of this Section to provide a procedure whereby the legislature may review the exercise of rule-making authority and the adoption, increasing, or decreasing of fees, extensions of the legislative lawmaking function, which it has delegated to state agencies.

B. Prior to the adoption, amendment, or repeal of any rule or the adoption, increase, or decrease of any fee, the agency shall submit a report relative to the proposed rule change or fee adoption, increase, or decrease to the appropriate standing committees of the legislature and the presiding officers of the respective houses as provided in this Section. The report shall be submitted on the same day the notice of the intended action is submitted to the Louisiana Register for publication in accordance with R.S. 49:961. The report shall be submitted to each standing committee electronically if electronic means are available. If no electronic means are available, the report shall be submitted to the committee's office in the state capitol by certified mail with return receipt requested or by messenger who shall provide a receipt for signature. The electronic receipt by the committee, return receipt or the messenger's receipt shall be proof of receipt of the report by the committee.

(1) The Department of Economic Development, all of the agencies made a part of it, and those agencies transferred to or placed within the office of the governor pursuant to R.S. 36:4.1 shall submit the report to the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs.

(2) Corrections services of the Department of Public Safety and Corrections and all the agencies of the department related to corrections and concealed weapons and concealed weapon permits, except as otherwise provided in this Subsection, the Louisiana State Board of Private Security Examiners, and the gaming enforcement section of the office of state police within the Department of Public Safety and Corrections shall submit all reports other than reports on proposed rule changes affecting prison enterprise programs, to the House Committee on Administration of Criminal Justice and the Senate Committee on Judiciary, Section C; however, the Crime Victims Reparation Board shall submit the report to the House Committee on the Judiciary and the Senate Committee on the Judiciary, Section B.

(3) The Department of Culture, Recreation and Tourism and all of the agencies made a part of it, except as otherwise provided in this Paragraph, shall submit the report to the House Committee on Municipal, Parochial and Cultural Affairs and the Senate Committee on Commerce, Consumer Protection, and International Affairs.

(a) The office of the state library, the office of the state museum, the State Board of Library Examiners, the Louisiana Archaeological Survey and Antiquities Commission, the Board of Directors of the Louisiana State Museum, the Board of Commissioners of the State Library of Louisiana, the Louisiana State Arts Council, the Louisiana State Capitol Fiftieth Anniversary



Commission, and the Louisiana National Register Review Committee shall submit the report to the House Committee on Municipal, Parochial and Cultural Affairs and the Senate Committee on Education.

(b) The office of state parks and the State Parks and Recreation Commission shall submit the report to the House Committee on Municipal, Parochial and Cultural Affairs and the Senate Committee on Natural Resources.

(c) The office of tourism and promotion and the Louisiana Tourist Development Commission shall submit the report to the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs.

(4) The Department of State and all of the agencies made a part of it shall submit a report to the House Committee on House and Governmental Affairs and the Senate Committee on Senate and Governmental Affairs.

(5) The Louisiana Workforce Commission and all of the agencies made a part of it shall submit the report to the House Committee on Labor and Industrial Relations and the Senate Committee on Labor and Industrial Relations.

(6) The Department of Transportation and Development and all of the agencies made a part of it shall submit the report, to the House Committee on Transportation, Highways and Public Works and the Senate Committee on Transportation, Highways and Public Works. The department shall also submit to the standing committees any policies or priorities developed for the expenditure or distribution of any monies from the Transportation Trust Fund as created by Article VII, Section 27 of the Constitution of Louisiana. The policies and priorities shall be submitted for review purposes only.

(7) Repealed by Acts 2001, No. 451, §5, eff. Jan. 12, 2004.

(8) The Department of Justice and all of the agencies made a part of it shall submit the report to the House Committee on the Judiciary and the Senate Committee on the Judiciary, Section C.

(9) The Department of Civil Service and all of the agencies made a part of it shall submit the report to the House Committee on House and Governmental Affairs and the Senate Committee on Senate and Governmental Affairs; however, the Board of Tax Appeals shall submit the report to the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

(10) The Department of Revenue and all of the agencies made a part of it, except as otherwise provided in this Paragraph, shall submit the report to the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs; however, the office of charitable gaming shall submit the report to the House Committee on Administration of Criminal Justice and the Senate Committee on Judiciary, Section B.



(11) The Department of Natural Resources and all of the agencies made a part of it shall submit the report to the House Committee on Natural Resources and Environment and the Senate Committee on Natural Resources. However, for exercises of the commissioner of conservation's rulemaking authority pursuant to Chapter 13-A-1 of Title 38 of the Louisiana Revised Statutes of 1950, the department shall submit the report to the House Committee on Natural Resources and Environment and the Senate Committee on Environmental Quality.

(12) Public Safety Services of the Department of Public Safety and Corrections and all the agencies of the department related to public safety, except as otherwise provided in this Subsection, shall submit the report to the House Committee on the Judiciary and the Senate Committee on the Judiciary, Section B; however, the office of motor vehicles shall submit the report to the House Committee on Transportation, Highways and Public Works and the Senate Committee on the Judiciary, Section B; however, the office of the state fire marshal, code enforcement and building safety, shall submit the report to the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection and International Affairs.

(13) The Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries and all of the agencies made a part of it shall submit the report to the House Committee on Natural Resources and Environment and the Senate Committee on Natural Resources.

(14) The Department of Insurance and all of the agencies made a part of it shall submit the report to the House Committee on Insurance and the Senate Committee on Insurance.

(15)(a) The Department of the Treasury and all of the agencies made a part of it, except as otherwise provided in this Paragraph, shall submit the report to the House Committee on Appropriations and the Senate Committee on Finance.

(b) Each retirement system made a part of the Department of the Treasury shall submit the report to the House Committee on Retirement and the Senate Committee on Retirement.

(16) The Louisiana Department of Health and all of the agencies made a part of it shall submit the report to the House Committee on Health and Welfare and the Senate Committee on Health and Welfare.

(17) The Department of Children and Family Services and all of the agencies made a part of it shall submit the report to the House Committee on Health and Welfare and the Senate Committee on Health and Welfare.

(18) The Department of Agriculture and Forestry and all of the agencies made a part of it shall submit all reports, and the Department of Public Safety and Corrections and all the agencies made a part of it shall submit reports on proposed rule changes affecting prison enterprise programs to the House Committee on Agriculture, Forestry, Aquaculture and Rural Development and the Senate Committee on Agriculture, Forestry, Aquaculture and Rural Development.



(19) The Department of Education and all of the agencies made a part of it shall submit the report to the House Committee on Education and the Senate Committee on Education.

(20) The Department of Public Service and all of the agencies made a part of it shall submit the report to the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs.

(21)(a) Except as provided in Paragraph (1) of this Subsection, the office of the governor and the office of the lieutenant governor and all of the agencies within or part of either and any other agency for which provisions are not otherwise made in this Subsection, shall submit the report to the speaker of the House of Representatives and the president of the Senate, except that executive orders duly issued by the governor and attested to by the secretary of state are exempt from the provisions of this Chapter. The speaker of the House of Representatives and the president of the Senate shall promptly forward the report to the appropriate standing committee of their respective houses.

(b) The Louisiana Workforce Investment Council shall submit the report to the House Committee on Labor and Industrial Relations and the Senate Committee on Labor and Industrial Relations.

(c) The Office of Group Benefits shall submit the report to the House Committee on Appropriations and the Senate Committee on Finance.

NOTE: Subparagraph (d) eff. upon appropriation of funds sufficient to fully fund the provisions of Acts 2020, 2nd Ex. Sess., No. 24.

(d) The office of broadband and connectivity shall submit the report to the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs.

(22) The Department of Environmental Quality and all of the agencies made a part of it shall submit the report to the House Committee on Natural Resources and Environment and the Senate Committee on Environmental Quality.

(23) The Louisiana Sentencing Commission shall submit the report to the House Committee on the Administration of Criminal Justice and the Senate Committee on the Judiciary, Section C.

(24)(a) In addition to the submission of a report relative to a proposed rule change or fee adoption, increase, or decrease by an agency to the appropriate standing committee as specified in Paragraphs (1) through (23) of this Subsection, whenever the fiscal impact of the rule or fee adoption, increase, or decrease, as indicated by the statement of fiscal impact required by Paragraph (C)(5) of this Section, exceeds one million dollars, the report on the proposed rule change or fee adoption, increase, or decrease shall also be submitted to the Senate Committee on Finance and the House Committee on Appropriations and shall be subject to review by those



committees in the same manner and to the same extent as the review of the standing committees provided for in Paragraphs (1) through (23) of this Subsection.

(b) Whenever the fiscal impact or economic impact of the proposed rule change or fee adoption, increase, or decrease is five hundred thousand dollars or more as indicated by the statement of fiscal impact or the statement of economic impact required by Subsection C of this Section, the agency shall transmit the report provided for in Subsection C of this Section to each member of the legislature via electronic mail on the same day the notice of the intended action is submitted to the Louisiana Register for publication in accordance with R.S. 49:961.

C. The report, as provided for in Subsection B of this Section, shall contain:

(1) A copy of the rule as it is proposed for adoption, amendment, or repeal and a statement of the amount of the fee to be adopted or the amount of the proposed increase or decrease. The rule shall be coded with any new rule or language that is to be added to an existing agency rule underscored and any language that is to be deleted from an existing agency rule in struck-through type.

(2) A statement of whether the rule is proposed for adoption, amendment, or repeal; a brief summary of the content of the rule if proposed for adoption or repeal; and a brief summary of the change in the rule if proposed for amendment.

(3) The specific citation of the enabling legislation purporting to authorize the adoption, amending, or repeal of the rule or purporting to authorize the adoption, increasing, or decreasing of the fee.

(4) A statement of the circumstances which require adoption, amending, or repeal of the rule or adoption, increasing, or decreasing of the fee.

(5) A statement of the fiscal impact of the proposed action and a statement of the economic impact of the proposed action, both approved by the Legislative Fiscal Office.

D.(1)(a) The chairman of each standing committee to which reports are submitted shall appoint an oversight subcommittee, which may conduct hearings on all rules that are proposed for adoption, amendment, or repeal and on all proposed fee adoptions, increases, or decreases. Any hearing shall be conducted after any hearing is conducted by the agency pursuant to R.S. 49:961.

(b) The agency shall submit a report to the subcommittee, in the same manner as the submittal of the report provided for in Subsection B of this Section, which shall include all of the following:

(i) A summary of all testimony at any hearing conducted pursuant to R.S. 49:961.



(ii) A summary of all comments received by the agency, a copy of the agency's response to the summarized comments, and a statement of any tentative or proposed action of the agency resulting from oral or written comments received.

(iii) A revision of the proposed rule if any changes to the rule have been made since the report provided for in Subsection B of this Section was submitted, or a statement that no changes have been made.

(iv) A concise statement of the principal reasons for and against adoption of any amendments or changes suggested.

(c) The agency shall publish on its website public notice that the report required by Subparagraph (b) of this Paragraph has been delivered to the appropriate standing committee as provided for in Subsection B of this Section within five business days from submission of the report to the appropriate standing committee. If the agency does not maintain a website, the agency may submit the public notice to the office of the state register for publication on a website maintained by the office of the state register.

(2)(a) Except as provided in Paragraph (H)(2) of this Section, any subcommittee hearing on a proposed rule shall be held no earlier than five days and no later than thirty days following the day the report required by Subparagraph (1)(b) of this Subsection is received by the subcommittee.

(b) The oversight subcommittee may consist of the entire membership of the standing committee and shall consist of at least a majority of the membership of the standing committee, at the discretion of the chairman of the standing committee, with the concurrence of the speaker of the House of Representatives or the president of the Senate. House and Senate oversight subcommittees may meet jointly or separately to conduct hearings for purposes of rules review.

(3) At the hearings, the oversight subcommittees shall make all of the following determinations:

(a) Whether the rule change or action on fees is in conformity with the intent and scope of the enabling legislation purporting to authorize the adoption thereof.

(b) Whether the rule change or action on fees is in conformity and not contrary to all applicable provisions of law and of the constitution.

(c) The advisability or relative merit of the rule change or action on fees.

(d) Whether the rule change or action on fees is acceptable or unacceptable to the oversight subcommittee.



E.(1)(a) Each determination shall be made by the respective subcommittees of each house acting separately. Action by a subcommittee shall require the favorable vote of a majority of the members of the subcommittee who are present and voting, provided a quorum is present.

(b) No later than three weeks before the deadline for legislative oversight action, the chairman of the subcommittee may request, by letter, the consent of the subcommittee members to have a mail ballot instead of a meeting to consider a proposed rule or proposed fee action. If no objection is received within ten days of the chairman's request, the chairman shall cause a mail ballot to be sent to the members of the subcommittee. In order for the subcommittee to reject a proposed rule or proposed fee action, a majority of ballots returned to the chairman at least twenty-four hours prior to the deadline for legislative oversight action must disapprove the change. Any determination by the subcommittee shall be made within the period provided for oversight hearings in Paragraph (D)(2) of this Section.

(2) Failure of a subcommittee to conduct a hearing or to make a determination regarding any rule proposed for adoption, amendment, or repeal shall not affect the validity of a rule otherwise adopted in compliance with this Chapter.

F.(1) If either the House of Representatives or the Senate oversight subcommittee determines that a proposed rule change or proposed fee action is unacceptable, the respective subcommittee shall provide a written report which contains all of the following:

(a) A copy of the proposed rule or a statement of the amount of the proposed fee action.

(b) A summary of the determinations made by the subcommittee in accordance with Subsections D and E of this Section.

(2) The written report shall be delivered to the governor, the agency proposing the rule change, and the Louisiana Register no later than four days after the committee makes its determination.

G. After receipt of the report of the subcommittee, the governor shall have ten calendar days in which to disapprove the action taken by the subcommittee. If the action of the subcommittee is not disapproved by the governor within ten calendar days from the day the subcommittee report is delivered to him, the rule change shall not be adopted by the agency until it has been changed or modified and subsequently found acceptable by the subcommittee, or has been approved by the standing committee, or by the legislature by concurrent resolution. If a proposed rule change is determined to be unacceptable by an oversight committee and the determination is not disapproved by the governor as provided in this Section, the agency shall not propose a rule change or emergency rule that is the same or substantially similar to such disapproved proposed rule change nor shall the agency adopt an emergency rule that is the same or substantially similar to such disapproved proposed rule change within four months after issuance of a written report by the subcommittee as provided in Subsection F of this Section nor more than once during the interim between regular sessions of the legislature.





H.(1) If both the House of Representatives and Senate oversight subcommittees fail to find a proposed rule change unacceptable, or if the governor disapproves the action of an oversight subcommittee within the time provided in Subsection G of this Section, the proposed rule change may be adopted by the agency in the identical form proposed by the agency or with technical changes or with changes suggested by the subcommittee if at least ninety days and no more than twelve months have elapsed since notice of intent was published in the Louisiana Register.

(2) Substantive changes to a rule proposed for adoption, amendment, or repeal occur if the nature of the proposed rule is altered or if the changes affect additional or different substantive matters or issues not included in the notice required by R.S. 49:961. Whenever an agency seeks to substantively change a proposed rule after notice of intent has been published in the Louisiana Register pursuant to R.S. 49:961, the agency shall hold a public hearing on the substantive changes preceded by an announcement of the hearing in the Louisiana Register. A notice of the hearing shall be mailed within ten days after the date the announcement is submitted to the Louisiana Register to all persons who have made request of the agency for notice. Any hearing by the agency pursuant to this Paragraph shall be held no earlier than thirty days after the publication of the announcement in the Louisiana Register. The agency hearing shall conform to R.S. 49:961, and a report on the hearing shall be made to the oversight committees in accordance with Subparagraph (D)(1)(b) of this Section. The agency shall make available to interested persons a copy of the report no later than one working day following the submittal of such report to the oversight committees. Any determination as to the rule by the oversight committees, prior to gubernatorial review as provided in Subsection G of this Section, shall be made no earlier than five days and no later than thirty days following the day the report required by this Paragraph is received from the agency.

(3) If a rule or part of a rule that is severable from a larger rule or body of rules proposed as a unit is found unacceptable, the rules or parts found acceptable may be adopted by the agency in accordance with Paragraph (1) of this Subsection.

I. If the governor disapproves the action of an oversight subcommittee, he shall state written reasons for his action and shall deliver a copy of his reasons to the House and Senate oversight subcommittees, the agency proposing the rule change, and the Louisiana Register.

J. The Louisiana Register shall publish a copy of the written report of an oversight subcommittee and the written report of the governor in disapproving any such action, or if unduly cumbersome, expensive, or otherwise inexpedient, a notice stating the general subject matter of the omitted report and stating how a copy may be obtained.

K.(1) Each year, no later than thirty days prior to the beginning of the regular session of the legislature, each agency shall submit a report to the appropriate committees as provided for in Subsection B of this Section. This report shall contain a statement of the action taken by the agency with respect to adoption, amendment, or repeal of each rule proposed for adoption, amendment, or repeal during the previous year and a report of the action taken by the agency with respect to any proposed fee adoption, increase, or decrease during the previous year.



(2) The report required by Paragraph (1) of this Subsection shall also contain a recitation of each petition and submission, if any, received by the agency pursuant to R.S. 49:961 during the previous calendar year and the agency's response to each petition and submission, if any were received.

L. After submission of the report required by Subsection K of this Section to the standing committee, a public hearing may be held by the committee for the purpose of reviewing the report with representatives of the agency.

M. No later than the second legislative day of the regular session of the legislature, a standing committee to which proposed rule changes or proposed fee changes are submitted may submit a report to the legislature. This report shall contain a summary of all action taken by the committee or the oversight subcommittee with respect to agency rules and fees during the preceding twelve months. The report shall also contain any recommendations of the committee for statutory changes concerning the agency, particularly in statutes authorizing the making and promulgation of rules and fees of the agency.

N. A standing committee may, at any time, exercise the powers granted to an oversight subcommittee under the provisions of this Section.

Acts 1990, No. 312, §1; Acts 1990, No. 938, §1; Acts 1990, No. 1085, §1, eff. July 31, 1990; Acts 1991, No. 21, §2, eff. June 14, 1991; Acts 1991, No. 938, §5; Acts 1992, No. 377, §4, eff. June 17, 1992; Acts 1992, No. 447, §3, eff. June 20, 1992; Acts 1993, No. 119, §1; Acts 1993, No. 733, §1; Acts 1995, No. 1057, §1, eff. June 29, 1995 and Jan. 8, 1996 (1/8/96 date is applicable to Dept. of Health and Hospitals only); Acts 1996, 1st Ex. Sess., No. 36, §3, eff. May 7, 1996; Acts 1997, No. 1, §5, eff. April 30, 1997; Acts 1997, No. 1001, §1; Acts 1999, No. 568, §2, eff. June 30, 1999; Acts 2001, No. 8, §16, eff. July 1, 2001; Acts 2001, No. 9, §8, eff. July 1, 2001; Acts 2001, No. 300, §3; Acts 2001, No. 451, §5, eff. Jan. 12, 2004; Acts 2001, No. 1178, §7, eff. June 29, 2001; Acts 2003, No. 49, §3, eff. July 1, 2003; Acts 2003, No. 116, §3, eff. May 28, 2003; Acts 2003, No. 183, §7; Acts 2003, No. 358, §1; Acts 2003, No. 850, §3; Acts 2003, No. 1049, §1; Acts 2008, No. 580, §6; Acts 2008, No. 743, §4, eff. July 1, 2008; Acts 2010, No. 777, §1; Acts 2010, No. 861, §21; Acts 2010, No. 877, §3, eff. July 1, 2010; Acts 2012, No. 549, §1; Acts 2012, No. 725, §1, eff. Jan. 1, 2013; Acts 2012, No. 744, §1, eff. June 12, 2012; Acts 2013, No. 220, §23, eff. June 11, 2013; Acts 2014, No. 640, §3, eff. June 12, 2014; Acts 2014, No. 832, §7.(A); Acts 2018, No. 454, §1, eff. Jan. 1, 2019; Acts 2020, 2nd Ex. Sess., No. 24, §2, see Act; Acts 2022, No. 663, §1; Redesignated from R.S. 49:968.

NOTE: R.S. 51:1365 as enacted by Acts 2020, 2nd Ex. Sess., No. 24, §3, provides that the provisions of Chapter 12 of Title 51 of the L.R.S. of 1950 regarding the Office of Broadband and Connectivity terminates on June 30, 2028.

NOTE: Former R.S. 49:966 redesignated as R.S. 49:952 by Acts 2022, No. 663, §1.



### **§967. Review of rules relative to state content standards; elementary and secondary education**

A. Each rule proposed by the State Board of Elementary and Secondary Education to adopt, amend, suspend, or repeal state content standards for use in public elementary and secondary schools shall be submitted to the Senate Committee on Education and the House Committee on Education for review, in accordance with the provisions of this Chapter.

B. State content standards proposed to be adopted by rule pursuant to this Section shall not be subject to severability in consideration by a legislative committee or the governor in oversight determinations. The state content standards set forth in a proposed rule shall be considered in globo in any determination of acceptability or unacceptability for oversight purposes.

Acts 2015, No. 245, §2; Acts 2022, No. 663, §1; Redesignated from R.S. 49:968.1.

NOTE: Former R.S. 49:967 redesignated as R.S. 49:954 by Acts 2022, No. 663, §1.

#### **§967.1. Redesignated as R.S. 49:955 by Acts 2022, No. 663, §1.**

### **§968. Judicial review of validity or applicability of rules**

A.(1) The validity or applicability of a rule may be determined in an action for declaratory judgment in the district court of the parish in which the agency is located.

(2) The agency shall be made a party to the action.

B.(1) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court.

(2) The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

C. The court shall declare the rule invalid or inapplicable if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without substantial compliance with required rulemaking procedures.

D. An action for a declaratory judgment under this Section may be brought only after the plaintiff has requested the agency to pass upon the validity or applicability of the rule in question and only upon a showing that review of the validity and applicability of the rule in conjunction



with review of a final agency decision in a contested adjudicated case would not provide an adequate remedy and would inflict irreparable injury.

E. Upon a determination by the court that any statement, guide, requirement, circular, directive, explanation, interpretation, guideline, or similar measure constitutes a rule as defined by R.S. 49:951(6) and that such measure has not been properly adopted and promulgated pursuant to this Chapter, the court shall declare the measure invalid and inapplicable. It shall not be necessary that all administrative remedies be exhausted.

F. With respect to the challenge of an occupational regulation, the plaintiff shall prevail if the court finds by a preponderance of evidence that the challenged occupational regulation on its face or in its effect burdens entry into a profession, trade, or occupation, and that an agency has failed to prove by a preponderance of evidence that the challenged occupational regulation is demonstrated to be necessary and narrowly tailored to fulfill legitimate fiduciary, public health, safety, or welfare objectives. Upon a finding for the plaintiff, the court shall enjoin further enforcement of the challenged occupational regulation and shall award reasonable attorney fees and costs to the plaintiff, except in the case of a challenged occupational regulation promulgated by an occupational licensing board that participates in the Department of Justice Occupational Licensing Review Program pursuant to R.S. 49:260.

G. The provisions of this Chapter shall not apply to administrative rules promulgated pursuant to the Human Life Protection Act, R.S. 40:1061 et seq.

Acts 1966, No. 382, §13, eff. July 1, 1967; Acts 1991, No. 639, §1, eff. July 17, 1991; Acts 1997, No. 1043, §1, eff. July 11, 1997; Acts 2022, No. 583, §2; Acts 2022, No. 663, §1; Redesignated from R.S. 49:963.

NOTE: Former R.S. 49:968 redesignated as R.S. 49:966 by Acts 2022, No. 663, §1.

#### **§968.1. Redesignated as R.S. 49:967 by Acts 2022, No. 663, §1.**

#### **§969. Legislative veto, amendment, or suspension of rules, regulations, and fees**

A. In addition to the procedures provided in R.S. 49:966 for review of the exercise of the rulemaking authority delegated by the legislature to state agencies, as defined by this Chapter, the legislature, by concurrent resolution, may suspend, amend, or repeal any rule or regulation or body of rules or regulations, or any fee or any increase, decrease, or repeal of any fee, adopted by a state department, agency, board, or commission. The Louisiana Register shall publish a brief summary of any concurrent resolution adopted by the legislature pursuant to this Section. The summary shall be published not later than forty-five days after signing of such resolution by the presiding officers of the legislature.

B. Notwithstanding the provisions of Subsection A of this Section, a rule adopted by the State Board of Elementary and Secondary Education relative to state content standards adopted



by the board for use in public elementary and secondary schools, may not be amended by the legislature and may be suspended or repealed only in its entirety.

Added by Acts 1980, No. 660, §1. Acts 1995, No. 1109, §1, eff. Oct. 1, 1995; Acts 2015, No. 245, §2; Acts 2022, No. 663, §1.

### **§970. Gubernatorial suspension or veto of rules and regulations**

A. The governor, by executive order, may suspend or veto any rule or regulation or body of rules or regulations adopted by a state department, agency, board, or commission, except as provided in R.S. 49:954, within thirty days of adoption. Upon the execution of an order, the governor shall transmit copies of the order to the speaker of the House of Representatives and president of the Senate.

B. Notwithstanding the provisions of Subsection A of this Section, the governor may suspend or veto a rule adopted by the State Board of Elementary and Secondary Education relative to state content standards adopted by the board for use in public elementary and secondary schools only in its entirety.

Added by Acts 1981, No. 453, §1; Acts 2015, No. 245, §2; Acts 2022, No. 663, §1.

### **§971. Rejection of agency fee adoption, increases, or decreases; prohibition against fee increases and new fees; exceptions**

A.(1) If either the House of Representatives or the Senate oversight subcommittee appointed pursuant to R.S. 49:966 determines that a proposed fee adoption, increase, or decrease is unacceptable, the respective subcommittee shall provide a written report containing the reasons for the finding to the governor; the agency proposing the fee adoption, increase, or decrease; and the other house of the legislature. If the oversight subcommittee of the other house of the legislature likewise determines that the proposed fee adoption, increase, or decrease is unacceptable, the fee action shall not be adopted by the agency.

(2) If a proposed fee adoption, increase, or decrease is found unacceptable as provided in this Section, the agency shall not propose a fee or a fee change or an emergency fee or an emergency fee change that is the same or substantially similar to the disapproved fee action nor shall the agency adopt an emergency fee or fee change that is the same or substantially similar to the disapproved fee action within four months after issuance of the subcommittee report nor more than once during the interim between regular sessions of the legislature.

(3) However, no state agency which has the authority to impose or assess fees shall increase any existing fee or impose any new fee unless the fee increase or fee adoption is expressly authorized pursuant to a fee schedule established by statute or specifically authorized by a federal law, rules, or regulations for the purpose of satisfying an express mandate of such federal law, rule, or regulation. No state agency shall adjust, modify, or change the formula for any authorized fee in a manner that would increase the fee paid by any person by more than five



percent of the relevant fee paid by such person in the previous fiscal year. Proposed fee increases of less than five percent shall be subject to oversight as required by R.S. 49:966.

(4)(a) The provisions of Paragraph (3) of this Subsection shall not apply to any department which is constitutionally created and headed by an officer who is duly elected by a majority vote of the electorate of the state.

(b) The provisions of Paragraph (3) of this Subsection shall not apply to any state professional and occupational licensing boards.

B. Action by a subcommittee shall require a quorum and the favorable vote of a majority of the members of the subcommittee who are present and voting.

Acts 1987, No. 240, §1; Acts 1995, No. 1005, §1, eff. Aug. 15, 1995; Acts 1995, No. 1057, §1, eff. June 29, 1995, and Jan. 8, 1996 (1/8/96 date is applicable to Dept. of Health and Hospitals only); Acts 2022, No. 663, §1.

{{NOTE: SEE ACTS 1987, NO. 240, §2.}}

### **§972. Family impact statement; issues to be considered; procedure; penalty**

A. Prior to the adoption and implementation of rules, each state agency shall consider and state in writing the impact of such rules on family formation, stability, and autonomy. This written consideration shall be known as the "family impact statement".

B. The family impact statement will consider and respond in writing to the following regarding the proposed rule:

- (1) The effect on the stability of the family.
- (2) The effect on the authority and rights of parents regarding the education and supervision of their children.
- (3) The effect on the functioning of the family.
- (4) The effect on family earnings and family budget.
- (5) The effect on the behavior and personal responsibility of children.
- (6) The ability of the family or a local government to perform the function as contained in the proposed rule.

C. All family impact statements must be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of law relating to public records.



D. For the purposes of this Section, "family" shall mean a group of individuals related by blood, marriage, or adoption who live together as a single household.

Acts 1999, No. 1183, §1.

**§973. Poverty impact statement; issues to be considered; procedure**

A. In the formation of rules, each state agency shall consider and state in writing the impact of such rules on child, individual, or family poverty in relation to individual or community asset development prior to the adoption and implementation of such rules. This written consideration shall be known as the "poverty impact statement".

B. The poverty impact statement shall consider and respond in writing to the following regarding the proposed rule:

- (1) The effect on household income, assets, and financial security.
- (2) The effect on early childhood development and preschool through postsecondary education development.
- (3) The effect on employment and workforce development.
- (4) The effect on taxes and tax credits.
- (5) The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

C. All poverty impact statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of law relating to public records.

D. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

Acts 2012, No. 854, §1, eff. Jan. 1, 2013.

**§974. Redesignated as R.S. 49:957 by Acts 2022, No. 663, §1.**

**§974.1. Short title**

R.S. 49:974.1 through 974.8 may be cited as the Small Business Protection Act and are referred to therein as "this Act".



Acts 2008, No. 820, §1; Acts 2019, No. 204, §§1, 2, eff. Feb. 1, 2020; Acts 2022, No. 663, §1; Redesignated from R.S. 49:978.1.

### **§974.2. Intent; legislative findings**

A. It is the legislative intent and purpose of the Small Business Protection Act to improve state rulemaking by creating procedures to analyze the availability of more flexible regulatory approaches for small businesses.

B. The legislature finds that:

(1) A vibrant and growing small business sector is critical to creating jobs in a dynamic economy. Increased hiring in Louisiana's small businesses creates higher wages and better outcomes for Louisiana's citizens and families.

(2) Small businesses bear a disproportionate share of regulatory costs and burdens. Increased regulatory costs decrease the amount of capital that small businesses have to create new jobs.

(3) Fundamental changes that are needed in the regulatory and enforcement culture of state agencies to make them more responsive to small business can be made without compromising the statutory missions of the agencies.

(4) When adopting rules to protect the health, safety, and economic welfare of Louisiana, state agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on small employers.

(5) Uniform regulatory and reporting requirements can impose unnecessary and disproportionately burdensome demands, including legal, accounting, and consulting costs upon small businesses with limited resources.

(6) The failure to recognize differences in the scale and resources of regulated businesses can adversely affect competition in the marketplace, discourage innovation, and restrict improvements in productivity.

(7) Unnecessary regulations create entry barriers in many industries and discourage potential entrepreneurs from introducing beneficial products and processes.

(8) The practice of treating all regulated businesses as equivalent may lead to inefficient use of regulatory agency resources, enforcement problems, and, in some cases, to actions inconsistent with the legislative intent of health, safety, environmental, and economic welfare legislation.





(9) Alternative regulatory approaches which do not conflict with the stated objective of applicable statutes may be available to minimize the significant economic impact of rules on small businesses.

(10) Prior to the adoption of regulations, the process by which state regulations are developed and adopted should be reformed to require agencies to solicit the ideas and comments of small businesses, to examine the impact of proposed and existing rules on such businesses, and to review the continued need for existing rules.

(11) Regulations affect small businesses differently than their larger counterparts. According to the United States Small Business Administration, evidence indicates that regulatory requirements at the federal and state level tend to create disproportionately heavier burdens for small businesses, putting them at a disadvantage relative to their larger competitors. Reasons that small businesses are at a disadvantage include the following:

(a) The cost of regulations is higher relative to available resources. The cost of regulations per employee is higher for businesses with fewer employees.

(b) The cost per employee for the smallest businesses is typically one or more times greater than the equivalent cost for the largest businesses.

(12) Making small businesses aware of proposed state regulations prior to implementation is key to creating an effective partnership between state agencies and small businesses.

C. Nothing in the Small Business Protection Act shall be interpreted or construed to limit the ability of an agency to propose rules.

Acts 2008, No. 820, §1; Acts 2019, No. 204, §§1, 2, eff. Feb. 1, 2020; Acts 2022, No. 663, §1; Redesignated from R.S. 49:978.2.

### **§974.3. Definitions**

The following words or terms as used in this Act shall have the following meanings unless a different meaning appears from the context:

(1) "Agency" means each state board, commission, department, agency, officer, or other entity which makes rules, regulations, or policy, or formulates, or issues decisions or orders pursuant to, or as directed by, or in implementation, of the constitution or laws of the United States or the constitution and statutes of Louisiana. The term "agency" shall not include any of the following entities:

(a) The legislature or any branch, committee, or officer thereof.



(b) Any political subdivision, as defined in Article VI, Section 44 of the Constitution of Louisiana, and any board, commission, department, agency, officer, or other entity thereof.

(c) The courts.

(2) "Potpourri notice" means a notice sent by an agency to the office of the state register indicating all of the following items:

(a) That the agency may implement a rule change at some future date.

(b) That the agency is seeking public comment and plans to conduct a public hearing, if one is requested prior to giving a notice of intent to implement the rule change.

(c) The deadline for receiving public comments and requests for a public hearing, which deadline is to occur prior to the date that the notice of intent to adopt the rule change, shall be sent to the office of the state register.

(3) "Proposed rule" means a proposal by an agency for a new rule or for a change in, addition to, or repeal of an existing rule.

(4) "Rule" means each agency statement, guide, or requirement for conduct or action, exclusive of those regulating only the internal management of the agency and those purporting to adopt, increase, or decrease any fees imposed on the affairs, actions, or persons regulated by the agency, which has general applicability and the effect of implementing or interpreting substantive law or policy, or which prescribes the procedure or practice requirements of the agency. "Rule" includes but is not limited to any provision for fines, prices or penalties, the attainment or loss of preferential status, and the criteria or qualifications for licensure or certification by an agency. A rule may be of general applicability even though it may not apply to the entire state, provided its form is general and it is capable of being applied to every member of an identifiable class. The term includes the amendment or repeal of an existing rule but does not include declaratory rulings or orders or any fees.

(5) "Small business" means a business that is domiciled in this state, employs one hundred or fewer full-time employees, and meets at least one of the following conditions:

(a) Gross annual sales are less than ten million dollars.

(b) Total net worth of the business is less than two million dollars.

Acts 2008, No. 820, §1; Acts 2010, No. 861, §21; Acts 2019, No. 204, §§1, 2, eff. Feb. 1, 2020; Acts 2022, No. 663, §1; Redesignated from R.S. 49:978.3.

#### **§974.4. Small business economic impact statements; potpourri notices**



A.(1) Prior to the adoption of any proposed rule that may have an adverse impact on small businesses, each agency shall prepare a small business economic impact statement, that includes the following:

(a) An identification and estimate of the number of the small businesses subject to the proposed rule.

(b) The projected reporting, record keeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

(c) A statement of the probable effect on impacted small businesses.

(d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.

(2) The small business economic impact statement shall be submitted to the office of the state register pursuant to R.S. 49:961.

B. If an agency determines, in its own judgment, that the input of small businesses and the public would be helpful in drafting a new proposed rule, the agency may issue a potpourri notice. If the agency issues a potpourri notice, it shall be submitted with the office of the state register.

Acts 2008, No. 820, §1; Acts 2019, No. 204, §§1, 2, eff. Feb. 1, 2020; Acts 2022, No. 663, §1; Redesignated from R.S. 49:978.4.

#### **§974.5. Regulatory flexibility analysis**

A. Prior to the adoption of any proposed rule, each agency shall prepare a regulatory flexibility analysis in which the agency shall, where consistent with health, safety, environmental, and economic welfare, consider utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small businesses. The agency shall consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:

(1) The establishment of less stringent compliance or reporting requirements for small businesses.

(2) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

(3) The consolidation or simplification of compliance or reporting requirements for small businesses.



(4) The establishment of performance standards for small businesses to replace design or operational standards required in the proposed rule.

(5) The exemption of small businesses from all or any part of the requirements contained in the proposed rule.

B. Prior to the adoption of any proposed rule by an agency which according to the economic impact statement required by R.S. 49:974.4 and the results of the regulatory flexibility analysis required by this Section would have an adverse impact on small businesses, the agency shall notify the Department of Economic Development of its intent to adopt the proposed rule.

C. The agency shall submit the small business flexibility analysis with the office of the state register pursuant to R.S. 49:961.

Acts 2008, No. 820, §1; Acts 2019, No. 204, §§1, 2, eff. Feb. 1, 2020; Acts 2022, No. 663, §1; Redesignated from R.S. 49:978.5.

#### **§974.6. Conflicts of law**

Nothing in the Small Business Protection Act shall be construed to conflict with or supersede any applicable federal law, rule, or regulation.

Acts 2008, No. 820, §1; Acts 2019, No. 204, §1, eff. Feb. 1, 2020; Acts 2022, No. 663, §1; Redesignated from R.S. 49:978.6.

#### **§974.7. Notification**

Upon receiving the electronic transfer of information from the office of the state register, as provided in R.S. 49:961, the commercial division of the Department of State shall perform all of the following items:

(1) By the fifteenth day of the month, the commercial division shall post information on the internet page of the commercial division under the heading of "Proposed State Rules and Regulations that May Affect Your Business".

(2) No later than the sixteenth day of the month, the division shall electronically transfer the information to the Louisiana Association of Business and Industry, the Louisiana Chapter of the National Federation of Independent Business, and to each person who has made a timely request of the department for this information.

Acts 2008, No. 820, §1; Acts 2019, No. 204, §1, eff. Feb. 1, 2020; Acts 2022, No. 663, §1; Redesignated from R.S. 49:978.7.

#### **§974.8. Small business advocate; posting of rules**



A. The secretary of state shall designate a small business advocate from the existing staff of the commercial division of the Department of State to implement and maintain the notification duties and functions required of the Department of State pursuant to R.S. 49:974.7.

B. The small business advocate shall coordinate the implementation and maintenance of the website of the commercial division of the Department of State relative to the receipt of information from the office of the state register pursuant to R.S. 49:961. The department shall enter into an agreement with the office of the state register to arrange for the electronic receipt of the information on an ongoing basis.

C. The small business advocate shall administer the Small Business Protection Act.

Acts 2019, No. 204, §§1, 2, eff. Feb. 1, 2020; Acts 2022, No. 663, §1; Redesignated from R.S. 49:978.8.

### **PART III. ADJUDICATION**

#### **§975. Adjudication; notice; hearing; records**

A. In an adjudication, all parties who do not waive their rights shall be afforded an opportunity for hearing after reasonable notice.

B.(1) The notice shall include all of the following:

- (a) A statement of the time, place, and nature of the hearing.
- (b) A statement of the legal authority and jurisdiction under which the hearing is to be held.
- (c) A reference to the particular sections of the statutes and rules involved.
- (d) A short and plain statement of the matters asserted.

(2) If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

C. Opportunity shall be afforded all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct cross-examination as required for a full and true disclosure of the facts.

D. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default.



E. The record in a case of adjudication shall include all of the following:

- (1) All pleadings, motions, and intermediate rulings.
- (2) Evidence received or considered or a resume thereof if not transcribed.
- (3) A statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose.
- (4) Offers of proof, objections, and rulings thereon.
- (5) Proposed findings and exceptions.
- (6) Any decision, opinion, or report by the officer presiding at the hearing.

F. The agency shall make a full transcript of all proceedings before it when the statute governing it requires it, and, in the absence of a requirement, shall, at the request of any party or person, have prepared and furnish him with a copy of the transcript or any part of the transcript upon payment of the cost unless the governing statute or constitution provides that it shall be furnished without cost.

G. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

Acts 1966, No. 382, §5, eff. July 1, 1967; Acts 2022, No. 663, §1; Redesignated from R.S. 49:955.

**§975.1. Rules of evidence; official notice; oaths and affirmations; subpoenas; depositions and discovery; confidential privileged information**

In adjudication proceedings:

(1) Agencies may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. Agencies may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(2) All evidence, including records and documents in the possession of the agency of which it desires to avail itself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence.



(3) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(4) Any agency or its subordinate presiding officer conducting a proceeding subject to this Chapter shall have the power to administer oaths and affirmations, regulate the course of the hearings, set the time and place for continued hearings, fix the time for filing of briefs and other documents, and direct the parties to appear and confer to consider the simplification of the issues.

(5)(a) Any agency or its subordinate presiding officer shall have power to sign and issue subpoenas in the name of the agency requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

(b) A subpoena issued pursuant to this Section shall be served by any agent of the agency, by the sheriff, by any other officer authorized by law to serve process in this state, by certified mail, return receipt requested, or by any person who is not a party and who is at least eighteen years of age. Witnesses subpoenaed to testify before an agency only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witness as may be fixed by the agency with reference to the value of the time employed and the degree of learning or skill required.

(c) Whenever any person summoned under this Section neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the agency may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt. It shall be the duty of the judge to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him, to proceed to a hearing of the case; and upon such hearing, the judge shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

(6) The agency or a subordinate presiding officer or any party to a proceeding before it may take the depositions of witnesses, within or without the state and may conduct discovery in all manners as provided by law in civil actions. Depositions so taken and admissions, responses,



and evidence produced pursuant to discovery shall be admissible in any proceeding affected by this Chapter. The admission of such depositions, admissions, responses, and evidence may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the agency or presiding officer in accordance with the rules of evidence provided in this Chapter.

(7) Repealed by Acts 1995, No. 760, §2, eff. June 27, 1995.

(8)(a) Records and documents, in the possession of any agency or of any officer or employee thereof including any written conclusions drawn therefrom, which are deemed confidential and privileged shall not be made available for adjudication proceedings of that agency and shall not be subject to subpoena by any person or other state or federal agency.

(b) Such records or documents shall only include any private contracts, geological and geophysical information and data, trade secrets and commercial or financial data, which are obtained by an agency through a voluntary agreement between the agency and any person, which said records and documents are designated as confidential and privileged by the parties when obtained, or records and documents which are specifically exempt from disclosure by statute.

(c) Any violation of this prohibition shall be a waiver of governmental immunity from suit for damage resulting from any such disclosure.

(d) Notwithstanding the provisions of Subparagraphs (a) and (c) of this Paragraph the state boards and agencies identified in R.S. 13:3715.1(J) may make available and use records and documents, including any written conclusions drawn therefrom, which are otherwise deemed confidential or privileged and which are in the possession of such board or agency or any officer, employee, or agent thereof, or any attorney acting on its behalf in any adjudication proceedings of such agency, provided that in any case involving medical or patient records, the identity of any patient shall be maintained in confidence. Any such records shall be altered so as to prevent the disclosure of the identity of the patient to whom such records or testimony relates. Disclosure by such board or agency or any officer, employee, agent, or attorney acting on behalf of any of them, of any material otherwise deemed privileged or confidential under state law, which is made in response to a federal subpoena, shall not constitute a waiver of governmental immunity from suit for damages resulting from such disclosure. Such boards and agencies, including their officers, employees, agents, and attorneys, shall nevertheless assert any privilege which is recognized and applicable under federal law when responding to any such federal subpoena.

Acts 1966, No. 382, §6, eff. July 1, 1967. Amended by Acts 1976, No. 524, §1, eff. Aug. 5, 1976; Acts 1989, No. 156, §1; Acts 1995, No. 760, §§1, 2, eff. June 27, 1995; Acts 1999, No. 416, §1; Acts 1999, No. 765, §1; Acts 2022, No. 663, §1; Redesignated from R.S. 49:956.

#### **§975.2. Administrative proceedings; member of the legislature or personnel as witness**

An application for an order compelling discovery to a member or former member of the legislature in his capacity as a state lawmaker, or a legislative employee in his official capacity,





when the legislature or either body thereof is not a party to the proceeding may be made to the agency in which the action is pending, but no order compelling discovery shall issue except in strict conformity with the provisions of R.S. 13:3667.3(D). For the purposes of this Section "legislative employee" shall mean the clerk of the House of Representatives, the secretary of the Senate, or an employee of the House of Representatives, the Senate, or the Legislative Bureau.

Acts 2006, No. 690, §4, eff. June 29, 2006; Acts 2008, No. 374, §4, eff. June 21, 2008; Acts 2012, No. 519, §4; Acts 2022, No. 663, §1; Redesignated from R.S. 49:956.1.

### **§976. Examination of evidence by agency**

When in an adjudication proceeding a majority of the officials of the agency who are to render the final decision have not heard the case or read the record, or the proposed order is not prepared by a member of the agency, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made final until a proposed order is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are to render the decision. The proposed order shall be accompanied by a statement of the reasons therefor and of the disposition of each issue of fact or law necessary to the proposed order, prepared by the person who conducted the hearing or by one who has read the record. No sanction shall be imposed or order be issued except upon consideration of the whole record and as supported by and in accordance with the reliable, probative, and substantial evidence. The parties by written stipulation may waive, and the agency in the event there is no contest may eliminate, compliance with this Section.

Acts 1966, No. 382, §7, eff. July 1, 1967; Acts 2022, No. 663, §1; Redesignated from R.S. 49:957.

### **§977. Decisions and orders**

A final decision or order adverse to a party in an adjudication proceeding shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be notified personally, by mail, or by electronic means of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record. The parties by written stipulation may waive, and the agency in the event there is no contest may eliminate, compliance with this Section.

Acts 1966, No. 382, §1, eff. July 1, 1967; Acts 2012, No. 289, §1, eff. May 25, 2012; Acts 2022, No. 663, §1; Redesignated from R.S. 49:958.

#### **§977.1. Rehearings**



A. A decision or order in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the agency, within ten days from the date of its entry. The grounds for action shall be one of the following:

- (1) The decision or order is clearly contrary to the law and the evidence.
- (2) The party has discovered since the hearing evidence important to the issues which he could not have with due diligence obtained before or during the hearing.
- (3) There is a showing that issues not previously considered ought to be examined in order to properly dispose of the matter.
- (4) There is other good ground for further consideration of the issues and the evidence in the public interest.

B. The petition of a party for rehearing, reconsideration, or review, and the order of the agency granting it, shall set forth the grounds which justify such action. Nothing in this Section shall prevent rehearing, reopening or reconsideration of a matter by any agency in accordance with other statutory provisions applicable to such agency, or, at any time, on the ground of fraud practiced by the prevailing party or of procurement of the order by perjured testimony or fictitious evidence. On reconsideration, reopening, or rehearing, the matter may be heard by the agency, or it may be referred to a subordinate deciding officer. The hearing shall be confined to those grounds upon which the reconsideration, reopening, or rehearing was ordered. If an application for rehearing shall be timely filed, the period within which judicial review, under the applicable statute, must be sought, shall run from the final disposition of such application.

Acts 1966, No. 382, §9, eff. July 1, 1967; Acts 2022, No. 663, §1; Redesignated from R.S. 49:959.

### **§977.2. Ex parte consultations and recusations**

A. Unless required for the disposition of ex parte matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in a case of adjudication noticed and docketed for hearing shall not communicate, directly or indirectly, in connection with any issue of fact or law, with any party or his representative, or with any officer, employee, or agent engaged in the performance of investigative, prosecuting, or advocating functions, except upon notice and opportunity for all parties to participate.

B. A subordinate deciding officer or agency member shall withdraw from any adjudicative proceeding in which he cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of a subordinate deciding officer or agency member, on the ground of his inability to give a fair and impartial hearing, by filing an affidavit, promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined promptly by the agency, or, if it affects a member or members of the agency, by the remaining



members thereof, if a quorum. Upon the entry of an order of disqualification affecting a subordinate deciding officer, the agency shall assign another in his stead or shall conduct the hearing itself. Upon the disqualification of a member of an agency, the governor immediately shall appoint a member pro tem to sit in place of the disqualified member in that proceeding. In further action, after the disqualification of a member of an agency, the provisions of R.S. 49:976 shall apply.

Acts 1966, No. 382, §10, eff. July 1, 1967; Acts 2022, No. 663, §1; Redesignated from R.S. 49:960.

### **§977.3. Licenses**

A. When the grant, denial, or renewal of a license is required to be preceded by notice and opportunity for hearing, the provisions of this Chapter concerning adjudication shall apply.

B. When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

C. No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gives notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee is given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

Acts 1966, No. 382, §11, eff. July 1, 1967; Acts 2022, No. 663, §1; Redesignated from R.S. 49:961.

### **§977.4. Declaratory orders and rulings**

Each agency shall provide by rule for the filing and prompt disposition of petitions for declaratory orders and rulings as to the applicability of any statutory provision or of any rule or order of the agency. Declaratory orders and rulings shall have the same status as agency decisions or orders in adjudicated cases.

Acts 1966, No. 382, §12, eff. July 1, 1967; Acts 1995, No. 947, §6, eff. Jan. 1, 1996; Acts 2022, No. 663, §1; Redesignated from R.S. 49:962.

### **§978. Judicial review; rule to show cause for permit applicants**



A. If the secretary does not grant or deny a permit, license, registration, variance, or compliance schedule for which the applicant had applied within the time period as provided for in R.S. 30:26 and 2022(C), R.S. 49:214.30(C)(2), and R.S. 56:6(26), the applicant has the authority, on motion in a court of competent jurisdiction, to take a rule on the secretary to show cause in not less than two nor more than thirty days, exclusive of holidays, why the applicant should not be granted the permit, license, registration, variance, or compliance schedule for which the applicant had applied. The rule may be tried out of term and in chambers.

B. In any trial or hearing on the rule, the applicant shall be entitled to a presumption that the facts as stated in the affidavit of the applicant, which shall be attached to the rule are true. The rule of the applicant shall be denied by the court only if the secretary provides clear and convincing evidence of an unavoidable cause for the delay. However, in denying the rule, the court shall decree that the secretary shall grant or deny the application within a time set by the court, or the application shall be granted without further action of the secretary or the court.

C. If the rule is made absolute, the order rendered thereon shall be considered a judgment in favor of the applicant granting the applicant the permit, license, registration, variance, or compliance schedule for which the applicant had applied.

D. The provisions of Subsections A, B, and C of this Section shall not apply to permit applications submitted under the Louisiana Pollutant Discharge Elimination System (LPDES) program under the Department of Environmental Quality.

Acts 1991, No. 828, §2; Acts 1995, No. 601, §2; Acts 2022, No. 663, §1; Redesignated from R.S. 49:962.1.

### **§978.1. Judicial review of adjudication**

A.(1) Except as provided in R.S. 15:1171 through 1177, a person who is aggrieved by a final decision or order in an adjudication proceeding is entitled to judicial review under this Chapter whether or not he has applied to the agency for rehearing, without limiting, however, utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy and would inflict irreparable injury.

(2)(a) No agency or official thereof or other person acting on behalf of an agency or official thereof shall be entitled to judicial review under this Chapter.

(b) The provisions of Subparagraph (a) of this Paragraph shall not apply to the Department of Children and Family Services or an official thereof or other person acting on behalf of the department or official in appeals brought pursuant to Children's Code Article 616.1.1.



B. Proceedings for review may be instituted by filing a petition in the district court of the parish in which the agency is located within thirty days after the transmittal of notice of the final decision by the agency or, if a rehearing is requested, within thirty days after the decision thereon. Copies of the petition shall be served upon the agency and all parties of record.

C. The filing of the petition does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay ex parte upon appropriate terms, except as otherwise provided by Title 37 of the Louisiana Revised Statutes of 1950, relative to professions and occupations. The court may require that the stay be granted in accordance with the local rules of the reviewing court pertaining to injunctive relief and the issuance of temporary restraining orders.

D. Within thirty days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

E. If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

F. The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

G. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;



(5) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or

(6) Not supported and sustainable by a preponderance of evidence as determined by the reviewing court. In the application of this rule, the court shall make its own determination and conclusions of fact by a preponderance of evidence based upon its own evaluation of the record reviewed in its entirety upon judicial review. In the application of the rule, where the agency has the opportunity to judge the credibility of witnesses by first-hand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the agency's determination of credibility issues.

(7) Repealed by Acts 2002, 1st Ex. Sess., No. 89, §3, eff. April 18, 2002.

Acts 1966, No. 382, §14, eff. July 1, 1967; Acts 1995, No. 1105, §1, eff. June 29, 1995; Acts 1997, No. 128, §1, eff. June 12, 1997; Acts 1997, No. 1216, §2; Acts 1997, No. 1224, §1; H.C.R. No. 89, 1997 R.S., eff. June 2, 1997; Acts 1999, No. 1332, §1, eff. July 12, 1999; Acts 2002, 1st Ex. Sess., No. 89, §3, eff. April 18, 2002; Acts 2012, No. 289, §1, eff. May 25, 2012; Acts 2018, No. 90, §1, eff. May 10, 2018; Acts 2022, No. 663, §1; Redesignated from R.S. 49:964.

NOTE: R.S. 15:1171-1179 were included in the Unconstitutional Statutes Biennial Report to the Legislature, date March 14, 2016.

NOTE: Former R.S. 49:978.1 redesignated as R.S. 49:974.1 by Acts 2022, No. 663, §1.

### **§978.2. Judicial review; attorney fees; court costs; report**

A. If an agency or official thereof, or other person acting on behalf of an agency or official thereof, files a petition for judicial review of a final decision or order in an adjudication proceeding and such agency, official, or person does not prevail in the final disposition of the judicial review, the agency shall be responsible for the payment of reasonable attorney fees and court costs of the other party.

B. Notwithstanding any provision of R.S. 13:4521 to the contrary, an agency or official thereof, or other person acting on behalf of an agency or official thereof, which files a petition for judicial review of a final decision or order in an adjudication proceeding shall be required to pay court costs.

C. All payments for litigation expenses required by this Section shall be paid from the agency's regular operating budget. Each agency which has paid litigation expenses shall submit a detailed report of all payments from the prior fiscal year to its legislative oversight committees and to the Joint Legislative Committee on the Budget no later than November fifteenth of each year. For the purposes of this Subsection and of R.S. 49:992(H), the term "litigation expenses" shall mean court costs and attorney fees of the agency and of any other party if the agency was required to pay costs and fees.



Acts 2003, No. 1271, §1, eff. July 11, 2003; Acts 2022, No. 663, §1; Redesignated from R.S. 49:964.1.

NOTE: Former R.S. 49:978.2 redesignated as R.S. 49:974.2 by Acts 2022, No. 663, §1.

**§978.3. Redesignated as R.S. 49:974.3 by Acts 2022, No. 663, §1.**

**§978.4. Redesignated as R.S. 49:974.4 by Acts 2022, No. 663, §1.**

**§978.5. Redesignated as R.S. 49:974.5 by Acts 2022, No. 663, §1.**

**§978.6. Redesignated as R.S. 49:974.6 by Acts 2022, No. 663, §1.**

**§978.7. Redesignated as R.S. 49:974.7 by Acts 2022, No. 663, §1.**

**§978.8. Redesignated as R.S. 49:974.8 by Acts 2022, No. 663, §1.**

### **§979. Appeals**

An aggrieved party may obtain a review of any final judgment of the district court by appeal to the appropriate circuit court of appeal. The appeal shall be taken as in other civil cases.

Acts 1966, No. 382, §15, eff. July 1, 1967; Acts 2022, No. 663, §1; Redesignated from R.S. 49:965.

### **§980. Expenses of administrative proceedings; right to recover**

A. When a small business files a petition seeking: (1) relief from the application or enforcement of an agency rule or regulation, (2) judicial review of the validity or applicability of an agency rule, (3) judicial review of an adverse declaratory order or ruling, or (4) judicial review of a final decision or order in an adjudication proceeding, the petition may include a claim against the agency for the recovery of reasonable litigation expenses. If the small business prevails and the court determines that the agency acted without substantial justification, the court may award such expenses, in addition to granting any other appropriate relief.

B. A small business shall be deemed to have prevailed in an action when, in the final disposition, its position with respect to the agency rule or declaratory order or ruling is maintained, or when there is no adjudication, stipulation, or acceptance of liability on its part. However, a small business shall not be deemed to have prevailed, if the action was commenced at the instance of, or on the basis of a complaint by, anyone other than an officer, agent, or employee of the agency and was dismissed by the agency on a finding of no cause for the action or settled without a finding of fault on the part of the small business.



C. An agency shall pay any award made against it pursuant to this Section from funds in its regular operating budget and shall, at the time of its submission of its proposed annual budget, submit to the division of administration and to the presiding officer of each house of the legislature a report of all such awards paid during the previous fiscal year.

D. As used in this Section:

(1) "Reasonable litigation expenses" means any expenses, not exceeding seven thousand five hundred dollars in connection with any one claim, reasonably incurred in opposing or contesting the agency action, including costs and expenses incurred in both the administrative proceeding and the judicial proceeding, fees and expenses of expert or other witnesses, and attorney fees.

(2) "Small business" means a small business as defined by the Small Business Administration, which for purposes of size eligibility or other factors, meets the applicable criteria set forth in 13 CFR, Part 121.

Added by Acts 1982, No. 497, §1; Acts 2022, No. 663, §1; Redesignated from R.S. 49:965.1.