

Regular Session, 2010

SENATE BILL NO. 248

BY SENATOR MCPHERSON

ADMINISTRATIVE PROCEDURE. Provides for the applicability of, and exemptions from, the Administrative Procedure Act. (8/15/10)

1 AN ACT

2 To amend and reenact R.S. 49:967, relative to the Administrative Procedure Act; to provide
3 for the applicability of, and exemptions from, the Act; and to provide for related
4 matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 49:967 is hereby amended and reenacted to read as follows:

7 §967. Exemptions from provisions of Chapter

8 A.(1) The legislature recognizes that it is essential to the operation of a
9 democratic government that prior to the adoption, amendment, or repeal of any
10 rule or the adoption, increasing, or decreasing of any fee, that the provisions of
11 this Chapter be followed.

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

1 for in this Chapter or the Constitution of Louisiana. Any exception, exemption,
 2 or limitation to the laws pertaining to the adoption, amendment, or repeal of
 3 any rule or the adoption, increasing, or decreasing of any fee not provided for
 4 in this Chapter or in the Constitution of Louisiana shall have no effect.

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

11 (1) Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950 shall not
 12 be applicable to the Board of Tax Appeals, the Department of Revenue, with the
 13 exception of the Louisiana Tax Commission that shall continue to be governed by
 14 this Chapter in its entirety, unless otherwise specifically provided by law, and the
 15 administrator of the Louisiana Employment Security Law; however, the provisions
 16 of R.S. 49:951(2), (4), (5), (6), and (7), 952, 953, 954, 954.1, 968, 969, and 970 shall
 17 be applicable to such board, department, and administrator.

18 ~~B:(1)~~(2)(a) The provisions of R.S. 49:968(F) and 970 shall not be applicable
 19 to any rule promulgated by the State Civil Service Commission or the Public Service
 20 Commission.

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

24 ~~C:(3)~~ The provisions of R.S. 49:963, 964, and 965 shall not be applicable to
 25 any rule, regulation, or order of any agency subject to a right of review under the
 26 provisions of R.S. 30:12.

27 ~~D:(1)~~(4)(a) The provisions of R.S. 49:968 shall not apply to any rule or
 28 regulation promulgated by the Department of Wildlife and Fisheries or the Wildlife
 29 and Fisheries Commission relative to hunting seasons, trapping seasons, alligator

1 seasons, shrimp seasons, oyster seasons, finfish seasons and size limits, and all rules
 2 and regulations pursuant thereto. The Department of Wildlife and Fisheries and the
 3 Wildlife and Fisheries Commission may employ the provisions of R.S. 49:953(B)
 4 in promulgating rules and regulations relative to hunting seasons, trapping seasons,
 5 alligator seasons, shrimp seasons, oyster seasons, and finfish seasons and size limits,
 6 and all rules and regulations pursuant thereto.

7 ~~(2)~~(b) Those rules adopted annually pursuant to this Subsection by the
 8 Department of Wildlife and Fisheries which open and close the offshore and fall
 9 shrimp seasons, the oyster season, the marine finfish seasons, the webless migratory
 10 game bird hunting season, and the trapping season shall be effective for a period of
 11 time equal to the length of the respective season.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

Present law, relative to the Administrative Procedure Act, provides the following exceptions:

- (1) The Board of Tax Appeals, the Department of Revenue, with the exception of the La. Tax Commission that shall continue to be governed by the Act, unless otherwise specifically provided by law, and the administrator of the La. Employment Security Law; however, R.S. 49:951(2), (4), (5), (6), and (7), 952, 953, 954, 954.1, 968, 969, and 970 shall be applicable to such board, department, and administrator.
- (2) (a) R.S. 49:968(F) and 970 shall not be applicable to any rule promulgated by the State Civil Service Commission or the Public Service Commission.
 (b) Entities created as provided in Part V of Chapter 6 of Title 34 of the LRS (pilotage fee commission).
- (3) R.S. 49:963, 964, and 965 shall not be applicable to any rule, regulation, or order of any agency subject to a right of review under R.S. 30:12 (office of conservation).
- (4) R.S. 49:968 shall not apply to any rule or regulation promulgated by the Department of Wildlife and Fisheries or the Wildlife and Fisheries Commission relative to hunting seasons, trapping seasons, alligator seasons, shrimp seasons, oyster seasons, finfish seasons and size limits, and all rules and regulations pursuant thereto. The department and the commission may employ the provisions of R.S. 49:953(B) 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. Such rules adopted annually by the department 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 a period of time equal to the length of the respective season.

Proposed law retains present law and requires that all exceptions, exemptions, and limitations to Administrative Procedure Act pertaining to the adoption, amendment, or repeal of any rule or the adoption, increasing, or decreasing of any fee be provided for in the provisions of the Act or the constitution. Further provides that any exception, exemption, and limitation to the Administrative Procedure Act pertaining to the adoption, amendment, or repeal of any rule or the adoption, increasing, or decreasing of any fee not provided for within the provisions of the Administrative Procedure Act or in the constitution shall have no effect.

Effective August 15, 2010.

(Amends R.S. 49:967)