

First Extraordinary Session, 2008

HOUSE BILL NO. 12

BY REPRESENTATIVES TUCKER AND GALLOT

ETHICS: Removes provisions allowing elected officials to cast a vote on matters in which a conflict of interest exists (Item #2(12))

1 AN ACT

2 To amend and reenact R.S. 42:1120, relative to conflicts of interest; to remove authority and
3 procedures for filing a statement rather than recusal from voting by elected officials;
4 to require the filing of a statement of recusal; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 42:1120 is hereby amended and reenacted to read as follows:

7 §1120. Recusal from voting

8 A. If any elected official, in the discharge of a duty or responsibility of his
9 office or position, would be required to vote on a matter which vote would be a
10 violation of R.S. 42:1112, he shall recuse himself from voting. ~~Notwithstanding the~~
11 ~~foregoing, an elected official shall not be required to recuse himself if he prepares~~
12 ~~and files the statement required by this Section as provided herein. In such case, the~~
13 ~~elected official shall prepare in writing a statement describing the matter in question,~~
14 ~~the nature of the conflict or potential conflict, and the reasons why, despite the~~
15 ~~conflict, the elected official is able to cast a vote that is fair, objective, and in the~~
16 ~~public interest. Such~~ A statement of recusal describing the matter in question and
17 the nature of the conflict or potential conflict shall be filed within three days of the
18 ~~vote~~ recusal with the chief clerical officer of the respective house of the legislature,
19 of the legislative committee, of the governing authority, or of any other body in
20 which the vote is taken, as the case may be, who shall cause the statement to be

1 recorded in the official journal, minutes, or other official record of the body. In
2 addition, the elected official shall be required to file a copy of such statement as it
3 appears in such published or recorded official journal, minutes, or record, with the
4 ~~appropriate ethics body~~ board.

5 B. ~~This Section shall not be applicable when the elected official is the sole~~
6 ~~decisionmaker in the discharge of the particular duty or responsibility of his office~~
7 ~~or position.~~

8 ~~C.~~ This Section shall not extend to any act of participation other than voting.

9 Section 2. This Act shall become effective upon signature by the governor or, if not
10 signed by the governor, upon expiration of the time for bills to become law without signature
11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
13 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law [R.S. 1:13(B)] and do not constitute proof or indicia of legislative intent. [R.S. 24:177(E)]

Tucker

HB No. 12

Abstract: Removes provision authorizing certain elected officials to vote on matters where there exists a conflict of interest and instead requires recusal from voting in such instances with no exceptions.

Present law requires an elected official, when required in the discharge of his official duties to vote on a matter which would be a violation of ethics code provisions prohibiting participation in certain transactions involving his governmental entity, to recuse himself from voting.

Proposed law retains present law.

Present law excepts an elected official from recusing himself if he prepares and files a written statement within three days of the vote with the chief clerical officer of the respective house of the legislature, of the legislative committee, of the governing authority, or of any other body in which the vote is taken. Provides that such statement describe the matter in question, the nature of the conflict or potential conflict, and the reasons why, despite the conflict, he is able to cast a vote that is fair, objective, and in the public interest.

Proposed law removes such exception and, instead of allowing such a written statement, requires an elected official to file a statement of recusal describing the matter in question and the nature of the conflict or potential conflict within three days of recusal. Retains present law provisions relative to those with whom the statement is filed.

Present law requires such chief clerical officer to cause the statement to be recorded in the official journal, minutes, or other official record of the body. Additionally requires a copy of the statement to be filed as it appears in such published or recorded official journal, minutes, or record, with the appropriate ethics body.

Proposed law retains present law but is applicable to the statement of recusal required by proposed law rather than the written statement provided for in present law. Also requires filing with the Board of Ethics specifically rather than the appropriate ethics body.

Present law specifies that the provisions of present law authorizing recusal shall not be applicable when the elected official is the sole decisionmaker in the discharge of the particular duty or responsibility of his office or position.

Proposed law deletes present law.

Present law provides that present law does not extend to any act of participation other than voting.

Proposed law retains present law.

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

(Amends R.S. 42:1120)