

First Extraordinary Session, 2008

HOUSE BILL NO. 15

BY REPRESENTATIVES TUCKER, PETERSON, AND GALLOT

ELECTIONS/CANDIDATES: Requires ethics training and certification that a candidate does not owe any ethics fines and has received ethics training as conditions for qualification (Item #7(5) and (6))

1 AN ACT

2 To amend and reenact R.S. 18:463(A)(2) and (C) and 491(C) and R.S. 42:1170(A) and to
3 enact R.S. 18:492(A)(6) and (7), relative to qualifying as a candidate for elected
4 office; to require a candidate for a primary election to certify that he does not owe
5 any ethics fines, fees, or penalties as a condition of qualification; to require each
6 candidate for elected office to receive training in the Code of Governmental Ethics
7 and to certify that he has received such training as conditions of qualification for a
8 primary election; to provide that the required ethics training fulfills the requirements
9 for certain training for elected officials; to provide relative to objections to candidacy
10 based on false certification regarding ethics fines or based on failure to receive ethics
11 training or falsely certifying receipt of such training; and to provide for related
12 matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1.R.S. 18:463(A)(2) and (C) and 491(C) are hereby amended and reenacted
15 and R.S. 18:492(A)(6) and (7) are hereby enacted to read as follows:

16 §463. Notice of candidacy; financial statements; political advertising; penalties

17 A.

18 * * *

19 (2)(a) The notice of candidacy also shall include a certificate, signed by the
20 candidate, certifying all of the following:

1 (i) ~~that~~ That he has read the notice of his candidacy.

2 (ii) ~~that~~ That he meets the qualifications of the office for which he is
3 qualifying.

4 (iii) ~~that~~ That he is not currently under an order of imprisonment for
5 conviction of a felony and that he is not prohibited from qualifying as a candidate for
6 conviction of a felony pursuant to Article I, Section 10 of the Constitution of
7 Louisiana.

8 (iv) ~~that~~ That he has attached to the notice of his candidacy the financial
9 statement required by Subsection B of this Section, if applicable.

10 (v) ~~that~~ That he acknowledges that he is subject to the provisions of the
11 Campaign Finance Disclosure Act (R.S. 18:1481 et seq.) if he is a candidate for any
12 office other than United States senator, representative in congress, or member of a
13 committee of a political party and that he does not owe any outstanding fines, fees,
14 or penalties pursuant to the Campaign Finance Disclosure Act.

15 (vi) That he does not owe any outstanding fine, fee, or penalty pursuant to
16 the Code of Governmental Ethics.

17 (vii) That, if he is a candidate to become an "elected official" as defined in
18 R.S. 42:1102, he has timely received the training required by and has otherwise
19 complied with the provisions of R.S. 42:1170(A)(4)

20 (viii) ~~and that~~ That all of the statements contained in it are true and correct.

21 (b) The certificate shall be executed before a notary public or shall be
22 witnessed by two persons who are registered to vote on the office the candidate
23 seeks. If the candidate is serving outside the state with the armed forces of the
24 United States, his notice of candidacy shall be witnessed by a commissioned officer
25 in the armed forces of the United States.

26 ~~(b)~~ (c) For the purposes of this Paragraph, "outstanding fine, fee, or penalty
27 pursuant to the Campaign Finance Disclosure Act" shall mean a fine, fee, or penalty
28 equal to an amount of two hundred fifty dollars or more assessed by order of the
29 Supervisory Committee on Campaign Finance Disclosure pursuant to the Campaign

1 Finance Disclosure Act which has been converted into a court order for which all
 2 appeals have been exhausted or a judgment of a district court assessing civil
 3 penalties pursuant to the Campaign Finance Disclosure Act and which has become
 4 executory pursuant to R.S. 18:1511.5. "Outstanding fine, fee, or penalty pursuant
 5 to the Code of Governmental Ethics" shall mean a fine, fee, or penalty equal to an
 6 amount of two hundred fifty dollars or more imposed by the Board of Ethics for
 7 which all appeals have been exhausted. "Outstanding fine, fee, or penalty" shall not
 8 mean any fine, fee, or penalty which has been paid in full or for which the candidate
 9 is in compliance with a payment plan established in writing between the Supervisory
 10 Committee on Campaign Finance Disclosure and the candidate or the Board of
 11 Ethics and the candidate as applicable.

12 * * *

13 C.(1) On the forms for notice of candidacy which are prepared, printed, and
 14 distributed by the secretary of state, a notice shall be printed below the signature line
 15 which shall inform the candidate that copies of the forms and pamphlets of
 16 explanation and instruction which are distributed by the Supervisory Committee on
 17 Campaign Finance Disclosure are available from the clerk of court or the committee,
 18 and that information contained in the notice of candidacy may be posted on the
 19 ~~website~~ web site of the secretary of state as determined by the secretary of state.

20 (2) On the forms for notice of candidacy which are prepared, printed, and
 21 distributed by the secretary of state, a notice shall be printed below the signature line
 22 which shall inform the candidate that R.S. 42:1170(A)(4) requires that a candidate
 23 to become an "elected official" as defined in R.S. 42:1102 shall have completed
 24 training in the provisions of the Code of Governmental Ethics as otherwise required
 25 by R.S. 42:1170 within one year prior to filing his notice of candidacy.

26 * * *

27 §491. Standing to object to candidacy

28 * * *

1 C. In addition to the persons with standing to bring an action objecting to
2 candidacy as provided in Subsections A and B of this Section:

3 ~~(1) the~~ The Supervisory Committee on Campaign Finance Disclosure may
4 bring an action objecting to the candidacy of a person who qualified as a candidate
5 in a primary or first party primary election for an office on the grounds provided in
6 R.S. 18:492(A)(5).

7 (2) The Board of Ethics may bring an action objecting to the candidacy of
8 a person who qualified as a candidate in a primary or first party primary election for
9 an office on the grounds provided in R.S. 18:492(A)(6).

10 §492. Grounds for an objection to candidacy

11 A. An action objecting to the candidacy of a person who qualified as a
12 candidate in a primary election shall be based on one or more of the following
13 grounds:

14 * * *

15 (6) The defendant falsely certified on his notice of candidacy that he does not
16 owe any outstanding fines, fees, or penalties pursuant to the Code of Governmental
17 Ethics as provided in R.S. 18:463(A)(2).

18 (7) The defendant failed to comply with the provisions of R.S.
19 42:1170(A)(4) or the defendant falsely certified on his notice of candidacy that he
20 complied with and received the training required by R.S. 42:1170(A)(4).

21 * * *

22 Section 2. R.S. 42:1170(A) is hereby amended and reenacted to read as follows:

23 §1170. Ethics education; mandatory requirements; ethics designee

24 A.(1) Commencing with terms of office beginning January 1, 2008, and
25 thereafter, each statewide elected official, legislator, and public service
26 commissioner shall receive a minimum of two hours of education and training ~~on~~ in
27 the provisions of the Code of Governmental Ethics during ~~their~~ his term of office.

28 A minimum of one hour of the required two hours of education and training shall be
29 received ~~in~~ during the first year of his term. In addition, each statewide elected

1 official, legislator, and public service commissioner shall receive a minimum of one
2 hour of education and training ~~on~~ in the provisions of the Campaign Finance
3 Disclosure Act during his term of office.

4 (2) Commencing with ~~the~~ terms of office beginning January 1, 2010, and
5 thereafter, each elected official who is subject to the provisions of the Code of
6 Governmental Ethics, and who ~~was not required to complete education and training~~
7 ~~on the Code of Governmental Ethics pursuant to~~ is not subject to the provisions of
8 Paragraph (1) of this Subsection, shall receive a minimum of two hours of education
9 and training in the provisions of the Code of Governmental Ethics during the first
10 year of his term. In addition, each ~~such elected officials who were not required to~~
11 ~~complete education and training pursuant to Paragraph (1) of this Subsection~~ official
12 who is subject to the provisions of this Paragraph shall receive a minimum of one
13 hour of education and training ~~on~~ in the provisions of the Campaign Finance
14 Disclosure Act during his term of office.

15 (3) Commencing with the four-year period beginning January 1, 2012, and
16 ending December 31, 2015, and during each four-year period thereafter, each public
17 servant subject to the provisions of the Code of Governmental Ethics, ~~not already~~
18 ~~who is not~~ required to complete education and training pursuant to Paragraph (1) or
19 (2) of this Subsection during such four-year period, shall receive a minimum of two
20 hours of education and training ~~on~~ in the provisions of the Code of Governmental
21 Ethics.

22 (4) Any person who seeks to become a candidate for office as an elected
23 official shall receive a minimum of two hours of education and training in the
24 provisions of the Code of Governmental Ethics within one year prior to qualifying
25 for office pursuant to R.S. 18:463. A candidate who receives such training within
26 such period and who is elected shall be deemed to have completed the education and
27 training required to be completed during the first year of his term by Paragraph (1)
28 or (2) of this Subsection.

29 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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

6 (B) Notwithstanding the provisions of Subsection A of this Section, the provisions
7 of this Act that require potential candidates to receive training in the Code of Governmental
8 Ethics shall apply to candidates who qualify for election on or after December 1, 2008.

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. 15

Abstract: Requires each candidate for elected office to receive training in the Code of Governmental Ethics, to certify receipt of such training as part of the notice of candidacy and to certify that he does not owe \$250 or more in unpaid fines, fees, or penalties for ethics violations. Provides that failure to receive such training, falsely certifying receipt of such training, and false certification regarding ethics fines are grounds for objection to candidacy. Provides that the required ethics training fulfills certain present law requirements for ethics training for elected officials.

Present law (R.S. 42:1134(N)) requires the Board of Ethics to conduct educational activities and seminars and publish appropriate materials on a regular basis which provide instruction and information relative to ethics and conflicts of interest concerning provisions of the ethics code, the Campaign Finance Disclosure Act (CFDA), laws relative to lobbying of the legislature, laws relative to lobbying of executive branch agencies, the La. Riverboat Economic Development and Gaming Control Act, the La. Economic Development and Gaming Corporation Act, the La. Lottery Corporation Law, the Video Draw Poker Devices Control Law, and any other matter within the board's jurisdiction. Requires that such activities, seminars, and materials explain the law in plain language and be open or available to public servants in all state and local agencies, persons who do business with such agencies, candidates, lobbyists, and other interested persons.

Present law also requires the board to design and make available to all interested persons via the Internet training and educational materials pertaining to the ethics code, the CFDA, laws relative to lobbying of the legislature, and laws relative to lobbying of executive branch agencies. Present law (R.S. 42:1134(O)) also requires the board to publish, in hard copy format and via the Internet, all public charges, opinions, letters of advice, and decisions of the board and its predecessors concerning the laws under its jurisdiction and an index referencing each to the specific citations of law on which it is based.

Present law (R.S. 42:1170) requires each statewide elected official, legislator, and public service commissioner to receive a minimum of two hours of ethics code education and training during his term, with a minimum of one hour of the required two hours to be received in the first year of his term, and requires an additional one hour of education and

training on the CFDA during his term, commencing with terms beginning Jan. 1, 2008, and thereafter. Requires every other elected official who is subject to the ethics code to receive a minimum of two hours of ethics code education and training in the first year of his term and an additional one hour of education and training on the CFDA during his term, commencing with terms beginning Jan. 1, 2010, and thereafter. Requires all other public servants to receive a minimum of two hours of ethics code education and training during the four-year period commencing on Jan. 1, 2012, through Dec. 31, 2015, and each four-year period thereafter. Present law authorizes such education and training to be received either in person or via the Internet through the training and education materials designed by the board in accordance with present law (R.S. 42:1134).

Proposed law, applicable to candidates who qualify for election on or after Dec. 1, 2008, requires any person who seeks to become a candidate for elected office to receive a minimum of two hours of education and training in the Code of Governmental Ethics within one year prior to qualifying for office. Also provides that a candidate who receives such training within such period and who is elected shall be deemed to have completed the education and training required to be completed during the first year of his term by present law. Present law relative to training in person or via the Internet would apply to training required by proposed law.

Proposed law retains present law (R.S. 42:1153), which provides penalties for ethics code violations, including (for elected officials and other persons) censure and/or a fine of up to \$10,000, and makes it applicable to violations of proposed law. Proposed law also retains present law (R.S. 42:1170(E)) that requires the board to keep records of compliance with the requirements of present law (R.S. 42:1170) by each public servant and by state agencies.

Present law (Election Code) provides for qualifying for primary elections. Requires a candidate to file a notice of candidacy and provides for such notices and procedures for filing. Requires that the notice of candidacy include a certificate, signed by the candidate, certifying that: he has read the notice of his candidacy, that he meets the qualifications of the office for which he is qualifying, that he is not currently under an order of imprisonment for conviction of a felony, that he is not prohibited from qualifying as a candidate for a felony conviction, that (if a candidate for governor) he has attached to the notice of candidacy the financial statement required by present law, that he acknowledges (except candidates for federal or party office) that he is subject to the provisions of the Campaign Finance Disclosure Act, that he does not owe any outstanding fines, fees, or penalties pursuant to the Campaign Finance Disclosure Act, and that all of the certified statements are true and correct.

Proposed law retains present law and requires that the certificate filed with the notice of candidacy also include a statement that the candidate does not owe any outstanding fines, fees, or penalties pursuant to the Code of Governmental Ethics.

Present law provides that an outstanding fine, fee, or penalty is one equal to \$250 or more which has been assessed by order of the Supervisory Committee on Campaign Finance Disclosure pursuant to the Campaign Finance Disclosure Act, which has been converted into a court order for which all appeals have been exhausted or a judgment of a district court, and which has become executory pursuant to present law.

Proposed law further provides that an outstanding fine, fee, or penalty includes one equal to \$250 or more which has been imposed by the Board of Ethics and for which all appeals have been exhausted.

Proposed law further requires that the notice of candidacy also include a certificate, signed by the candidate, certifying that he has timely received the training required by and has otherwise complied with the provisions of proposed law (R.S. 42:1170(A)(4)) relative to ethics training for candidates.

Present law requires that notice of candidacy forms include a printed notice below the signature line that informs the candidate that copies of the forms and pamphlets of explanation and instruction, which are distributed by the Supervisory Committee on Campaign Finance Disclosure, are available from the clerk of court or the committee, and that information contained in the notice of candidacy may be posted on the secretary of state's web site as determined by the secretary of state.

Proposed law additionally provides that on such forms a notice shall be printed below the signature line which shall inform the candidate that proposed law (R.S. 42:1170(A)(4)) requires that he shall have completed certain training in the Code of Governmental Ethics within one year prior to filing his notice of candidacy.

Present law provides for objections to candidacy and disqualification of candidates. Authorizes registered voters to bring an action objecting to the candidacy of a person who qualified as a candidate in a primary or first party primary election for an office for which he is qualified to vote. Provides that the grounds for such an objection include: failure to qualify for the primary election in the manner prescribed by law, not meeting the qualifications for the office, being prohibited by law from becoming a candidate for one or more of the offices for which the candidate qualified, and falsely certifying on the notice of candidacy that the candidate does not owe any outstanding fines, fees, or penalties pursuant to the Campaign Finance Disclosure Act. Present law also authorizes the Supervisory Committee on Campaign Finance Disclosure to object to a candidacy on grounds that the candidate falsely certified that he did not owe any campaign disclosure fines, fees, or penalties.

Proposed law additionally provides that falsely certifying that the candidate does not owe any outstanding fines, fees, or penalties pursuant to the Code of Governmental Ethics is grounds for objecting to a candidacy and authorizes the Board of Ethics to object to a candidacy on such grounds.

Proposed law adds, as additional grounds for objection to candidacy, failure to comply with the provisions of proposed law requiring ethics training for candidates or falsely certifying compliance with proposed law on the notice of candidacy.

Effective upon signature of governor or lapse of time for gubernatorial action. However, requirements that potential candidates receive ethics training apply to candidates who qualify for election on or after Dec. 1, 2008.

(Amends R.S. 18:463(A)(2) and (C) and 491(C) and R.S. 42:1170(A); Adds R.S. 18:492(A)(6) and (7))