

First Extraordinary Session, 2008

HOUSE BILL NO. 28

BY REPRESENTATIVES TUCKER, PETERSON, GALLOT, BILLIOT, TIM BURNS, CHAMPAGNE, DOERGE, DOVE, HENRY, HINES, LABRUZZO, LIGI, NOWLIN, PEARSON, RICHARD, SMILEY, JANE SMITH, TALBOT, AND WILLIAMS

ETHICS: Relative to violations of laws under Board of Ethics' jurisdiction, specifically makes applicable certain provisions and penalties relative to the crime of filing of false public documents and provides relative to referral of criminal violations to the district attorney and his access to related records (Item #4)

1 AN ACT

2 To amend and reenact R.S. 24:57 and R.S. 49:77 and to enact R.S. 18:1505.6(D), R.S.
3 24:58(E), R.S. 42:1124.1(D), and R.S. 49:78(E), relative to criminal violations of
4 laws within the jurisdiction of the Board of Ethics; to provide that conviction for the
5 knowing filing of certain false documents pursuant to such laws makes the violator
6 guilty of the crime of filing false public documents and subject to the penalties
7 therefor; to require the board or panel to forward to the appropriate district attorney
8 a copy of its findings when it finds probable cause to believe a criminal violation of
9 laws under the board's jurisdiction has occurred and to provide for access to the
10 board's records of such violations by the district attorney; and to provide for related
11 matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 18:1505.6(D) is hereby enacted to read as follows:

14 §1505.6. Criminal penalties

15 * * *

16 D. In addition to the other penalties contained in this Section, any person
17 who files, with knowledge of its falsity, a registration, report, statement, or document

1 statement, or document required by this Chapter which contains a false statement or
2 false representation of a material fact shall upon conviction thereof by a court of
3 competent jurisdiction be guilty of the crime of filing a false public record and
4 subject to the penalties set forth in R.S. 14:133.

5 Section 4. R.S. 49:77 is hereby amended and reenacted and R.S. 49:78(E) is hereby
6 enacted to read as follows:

7 §77. Administration

8 A. The ethics board, in performance of its duties under this Part, shall:

9 (1) Register lobbyists and assign lobbyist registration numbers as required
10 by this Part.

11 (2) Issue to each registered lobbyist at the time of initial registration a copy
12 of this Part and any rules adopted pursuant to this Part.

13 (3) Promulgate all rules and forms necessary for the implementation and
14 administration of this Part, including but not limited to rules and forms to prescribe
15 the level of organizational unit or units of an executive branch agency for which
16 expenditures required to be reported pursuant to this Part shall be aggregated.

17 B. Upon a finding that there is probable cause to believe that any person has
18 committed a criminal violation of this Part, the board or panel shall forward a copy
19 of its findings to the appropriate district attorney, and the district attorney shall have
20 access to board records, all as provided in R.S. 42:1156.

21 §78. Enforcement

22 * * *

23 E. Any person who files with the board, with knowledge of its falsity, a
24 registration, report, statement, or document required by this Part which contains a
25 false statement or false representation of a material fact shall upon conviction thereof
26 by a court of competent jurisdiction be guilty of the crime of filing a false public
27 record and subject to the penalties set forth in R.S. 14:133.

28 Section 5. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 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. 28

Abstract: Relative to certain laws under Board of Ethics' jurisdiction, makes applicable certain provisions and penalties relative to the crime of filing of false public documents and provides relative to referral of criminal violations to the district attorney and his access to related records.

Present law (R.S. 14:133-Criminal Code) provides for the crime of filing false public records. Provides that filing false public records is the filing or depositing for record in any public office or with any public official, or the maintaining as required by law, regulation, or rule, with knowledge of its falsity, of any of the following:

- (1) Any forged document.
- (2) Any wrongfully altered document.
- (3) Any document containing a false statement or false representation of a material fact.

Present law provides penalties for committing the crime of filing false public records of imprisonment for not more than five years with or without hard labor, a fine of not more than \$5,000, or both.

Present law (R.S. 18:1505.6-Campaign Finance Disclosure Act (CFDA)) makes it unlawful for a candidate, treasurer, or chairman of a political committee, or any other person required to file reports under the CFDA, to knowingly, wilfully, and fraudulently fail to disclose, or to knowingly, willfully, and fraudulently disclose inaccurately, any information required to be disclosed in CFDA reports. Requires that violators, upon conviction, be sentenced to not in excess of six months in the parish jail, or to pay a fine of not more than \$500, or both.

Proposed law (R.S. 18:1505.6) provides that in addition to present law, a person who files, with knowledge of its falsity, a registration, report, statement, or document required by the CFDA which contains a false statement or false representation of a material fact upon conviction by a court of competent jurisdiction shall be guilty of the crime of filing a false public record and subject to the penalties in present law (R.S. 14:133).

Present law (R.S. 42:1124.1-ethics code) provides that knowingly and willfully filing a false report required by the ethics code is a misdemeanor. Provides that "knowingly and willfully" means conduct which could have been avoided through the exercise of due diligence. Requires that violators, upon conviction, be fined not less than \$1,000 nor more than \$10,000 or imprisoned in parish prison for not more than six months, or both. Requires that a prosecution of such a violation shall be tried before a jury of six persons and that all six must concur to render a verdict.

Proposed law provides that, in addition to present law, a person who files, with knowledge of its falsity, a registration, report, statement, or document required by the ethics code which contains a false statement or false representation of a material fact upon conviction by a court of competent jurisdiction shall be guilty of the crime of filing a false public record and subject to the penalties in present law (R.S. 14:133).

Proposed law (R.S. 24:58-legislative lobbying and R.S. 49:78-executive branch lobbying) specifies that a person who files, with knowledge of its falsity, a registration, report, statement, or document required by the laws relative to legislative lobbying or executive branch lobbying which contains a false statement or false representation of a material fact upon conviction by a court of competent jurisdiction shall be guilty of the crime of filing a false public record and subject to the penalties in present law (R.S. 14:133).

Present law (R.S. 42:1156-ethics code-also applicable to enforcement of other laws under jurisdiction of the Board of Ethics) requires that, upon a finding by the Board of Ethics or a board panel at a public hearing that there is probable cause to believe that any public servant or other person has violated any criminal law of the state, the board or panel shall forward a copy of its findings to the district attorney of the parish in which the violation occurred for appropriate action. Further provides that thereafter such district attorney shall have access to all board records relative to such charges.

Proposed law (R.S. 24:57-legislative lobbying and R.S. 49:77-executive branch lobbying) retains present law and additionally provides that, if the Board of Ethics or a panel finds that there is probable cause to believe that any person has committed a criminal violation of the laws relative to legislative lobbying or executive branch lobbying, the board or panel shall forward a copy of its findings to the appropriate district attorney, and the district attorney shall have access to board records, all as provided in R.S. 42:1156.

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

(Amends R.S. 24:57 and R.S. 49:77; Adds R.S. 18:1505.6(D), R.S. 24:58(E), R.S. 42:1124.1(D), and R.S. 49:78(E))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill.

1. Removes proposed repeal of misdemeanor provisions relative to filing false financial statements pursuant to the ethics code.
2. Removes references to effectiveness of present law penalties.