

Committee Reports

COMMITTEE REPORT

House of Representatives Committee on Administration of Criminal Justice February 5, 1999

Building Permits and Plans, and Commercial
Building Energy Conservation Code
(LAC 55:V.301, 303 and Chapter 26)

In accordance with R.S. 49:953(B)(4)(a), the Committee on Administration of Criminal Justice met on February 3, 1999, in House Committee Room No. 6 at 10:00 a.m.

The purpose of the meeting was to conduct legislative oversight on emergency rules proposed and adopted by the Office of State Fire Marshall, Department of Public Safety and Corrections, which took effect on January 1, 1999.

The following members of the House were present:

Representative Stephen J. Windhorst, Chairman
Representative Audrey A. McCain, Vice Chairman
Representative Beverly G. Bruce
Representative Reggie Dupre
Representative Alexander Heaton
Representative Louis Jenkins
Representative Donald Kennard
Representative Robert Marioneaux
Representative Arthur Morrell
Representative Anthony Perkins
Representative Errol Romero

Pursuant to R.S. 49:968(B), the Office of State Fire Marshall, Department of Public Safety and Corrections, submitted a report to the Committee on Administration of Criminal Justice indicating that it was proposing the promulgation of Emergency Rules amending LAC Sections 301 and 303 of Chapter 3, Part V, of Title 55, and the adoption of Sections 2601-2613 as Chapter 26 of Part V of Title 55. These rules enact and amend provisions necessitated by the Commercial Building Energy Conservation Code (R.S. 40:1730.21, et seq.).

The Emergency Rules were found unacceptable by vote of the committee.

In accordance with R.S. 49:953(B)(4)(a) and 968(F)(b) the following determinations were made and are submitted for your review regarding the proposed rule changes.

1. R.S. 49:953(B)(1) provides that an agency may enact emergency rules only if there is "imminent peril to the public health, safety, or wealthy" which requires immediate action which can't wait for the ordinary promulgation and notice provisions. The agency failed to show the existence of such an emergency.

2. R.S. 49:953(B)(4) mandates that the legislative oversight committee must make a determination of whether the rules meet the above criteria to be considered an

emergency rule. The committee concluded that no such emergency exists.

Accordingly, the committee unanimously rejected the proposed emergency rules.

Stephen J. Windhorst
Chairman

9902#030

COMMITTEE REPORT

Senate Senate Committee on Labor and Industrial Relations January 13, 1999

Office of Workers' Compensation—Hearing Rules
(LAC 40:I.5525, 5703, 5813, 5819,
5953, 6001, 6101, 6203 and 6505)

(Editor's Note: This notice of intent was referenced in the October 20, 1998 issue of the Louisiana Register and may be viewed in its entirety at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.)

On January 13, 1999, pursuant to the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., the Senate Committee on Labor and Industrial Relations met for the purpose of determining acceptability of the Louisiana Department of Labor, Office of Workers' Compensation, rules providing for procedural guidelines for the workers' compensation court.

The Committee found the proposed rules unacceptable at this time.

I respectfully request that you allow the action of this Committee to stand.

Charles D. Jones
Chairman

9902#004

GOVERNOR'S RESPONSE TO COMMITTEE REPORT

January 15, 1999

Office of Workers' Compensation—Hearing Rules
(LAC 40:I.5525, 5703, 5813, 5819,
5953, 6001, 6101, 6203 and 6505)

(Editor's Note: This notice of intent was referenced in the October 20, 1998 issue of the Louisiana Register and may be viewed in its entirety at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.)

Dear Senator Jones:

On Friday, January 15, 1999, we received your letter dated

January 14 along with a Legislative Oversight Report by the Senate Committee on Labor and Industrial Relations. In your letter, you advised me that the Senate committee met on Wednesday, January 13, 1999, to review administrative rules proposed by the Office of Workers' Compensation of the Department of Labor. Your letter recites the concerns of some committee members and advises of the failure of the committee to find any of the rules acceptable. Initially, the letter requests that I support the findings of the committee and "withhold implementation of the proposed rules." Secondly, the letter states that "should [I] decide to implement the proposed rules, the Committee [urges me] to incorporate the amendments and proposed changes suggested by the House Committee on Labor and Industrial Relations, in addition to having Ad Hoc judges selected based on the same criteria used for selecting Ad Hoc judges in District Courts."

Following receipt of the committee report, I asked the department to carefully review all issues raised and suggestions made by both committees in an earnest attempt to honor all of them. After extensive review and many discussions, consistent with your suggestion that the issues

raised in the House committee should be accommodated, the department agreed to do so and thus I did not overturn the House committee action. Therefore, the rules found acceptable by the House Committee on Labor and Industrial Relations will be made final, but those specifically discussed in the House legislative oversight report as not acceptable will not go into effect. I refer you to the attached recommendations by the department to me on this point.

Thus, to reconcile the differences between the department and these legislative oversight committees over the core of the issues, I find that I have no choice under R.S. 49:968 but to disapprove the action of the Senate Committee on Labor and Industrial Relations.

The effect of my action is to allow the Department of Labor to make final without delay, the noncontroversial rules which comprise the great majority thereof, as I find this action clearly in the best interest of both employees and employers.

M.J. "Mike" Foster, Jr.
Governor

9902#009