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New Ethics Board learns limitations



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- By [MARSHA SHULER](#)
- Advocate Capitol News Bureau
- Published: Oct 10, 2008 - Page: 1A - UPDATED: 12:05 a.m.

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Louisiana’s new Ethics Board members Thursday questioned their roles in the wake of a new law that strips them of the power to decide conflicts of interest, nepotism and other violations.

It’s the same law that prompted mass board resignations in June, stymieing ethics law enforcement.

Ten of the 11 board members are new.

The discussion came during an educational seminar for appointees required prior to their being able to meet to

conduct business.

At the training's end, board members took an oath of office; set an Oct. 27 meeting date to begin tackling a major backlog of ethics cases; and launched the process to fill the vacant, chief ethics administrator-general counsel position.

Ethics Administrator Richard Sherburne also resigned, upset over the change in board functions.

The law, pushed by Gov. Bobby Jindal and key legislators, takes away the board's judicial authority to decide whether people have violated state ethics and other laws it polices.

The Ethics Board is left to investigate and decide whether charges should be filed. Ethics attorneys become prosecutors who try cases before a panel of administrative law judges hired by a governor's appointee.

The board began struggling over just how far the authority of the administrative judges goes.

Under the new law, the Ethics Board must sign off on the law judges' findings.

"Can the board disagree?" asked member Robert "Bob" Bareikis of Shreveport.

Ethics deputy general counsel Kathleen Allen said the board does not appear to have that authority under the new law.

"Then the board is expected to rubber stamp the administrative law judge finding?" asked board Jean Ingrassia of Gonzales.

"What if in good conscience members of the (ethics) board say we cannot not approve it?" asked member Frank Simoneaux of Baton Rouge.

Allen said the administrative-law-judge law appears to give the board no discretion even though the state constitution authorizes the board to make final determinations. She said that poses an interesting legal question.

"This is new territory for us," Allen said.

Member Scott Frazier of Baton Rouge asked if the Ethics Board can appeal the administrative law judges' findings on whether a violation has been found or a dismissal is recommended.

Allen said the board would have no right of appeal if the panel decided the charges have no merit.

Administrative law judges work for other state agencies settling disputes between them and individuals and companies, said Vivian Guillory, general counsel over the state's administrative law judges.

In those instances, state agencies do not have the right of appeal, Guillory said. Aggrieved individuals or companies can appeal the decisions, and it is generally to the 19th Judicial District Court in Baton Rouge, she said.

Administrative law judges handled between 500 and 600 cases a year. Those picked to serve on ethics case panels will continue to do work for other agencies, Guillory said.

Member Blake Monroe wanted to know if there were time deadlines on the conclusion of cases.

“I don’t want us to end up in a situation where we put a new process in and have no idea how long it’s going to take,” Monroe said.

Guillory said more than 50 percent of the 8,000 to 10,000 cases handled by the law judges are resolved within a week, and most of the others are settled within 30 days.

“We have an in-house policy to move these cases,” she said.

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