

State of Louisiana  
Department of Revenue



JEFF LANDRY  
GOVERNOR

RICHARD NELSON  
SECRETARY

January 30, 2024

Via e-mail (return receipt requested) to:

The Honorable Julie Emerson  
Chairman of the House Committee on Ways and Means  
P.O. Box 94062  
Baton Rouge, Louisiana 70804  
apa.h-wm@legis.la.gov

The Honorable Franklin Foil  
Chairman of the Senate Committee on Revenue & Fiscal Affairs  
P.O. Box 94183  
Baton Rouge, Louisiana 70804  
apa.s-r&f@legis.la.gov

**Re: Proposed Rule LAC 61:III.201, 203, 205, 207– Open Meetings Via Electronic Means**

Chairman Emerson and Chairman Foil:

On November 29, 2023, a copy of the *Notice of Intent* issued by the Department of Revenue for promulgation of proposed Rule LAC 61:III.201, 203, 205, 207-*Open Meetings Via Electronic Means* was sent to your committee for review. An agency, regardless of its eligible to conduct open meetings via electronic means, is required by R.S. 42:14(E) to provide electronic or alternate participation in open meetings as an ADA accommodation for people with disabilities. In order to implement such provisions, R.S. 42:14(E) requires agencies to promulgate rules in accordance with the Administrative Procedures Act. The Department of Revenue meets the criteria set forth in R.S. 42:17.2 for eligibility to conduct open public meetings via electronic means. Therefore, the purpose of this proposed Rule is to promulgate rules in accordance with R.S. 42:14(E) and R.S. 42:17.2 as required by Act 393 of the 2023 Regular Session.

The *Notice of Intent* was published on pages 2177 through 2179 of the December 2023 issue of the *Louisiana Register*. A public hearing was held in the LaSalle Building on Tuesday, January 30, 2024. There were no attendees other than one Department attorney.

Additionally, no written or oral comments were received. As a result, no changes will be made to the text of the amended Rule before it is finalized.

This report is being made in accordance with R.S. 49:966(D)(1)(b) of the Administrative Procedure Act. Unless otherwise directed, the proposed Rule will be submitted for publication as a final rule in the March 2024 edition of the *Louisiana Register*. Should you have any questions or need additional information, please contact Christina Junker via email at [christina.junker2@la.gov](mailto:christina.junker2@la.gov) or by phone at (225) 219-7823.

Sincerely,



Richard Nelson  
Secretary

Cc: The Honorable Cameron Henry, President of the Senate, [apa.senatepresident@legis.la.gov](mailto:apa.senatepresident@legis.la.gov), The Honorable Phillip DeVillier, Speaker of the House, [apa.housespeaker@legis.la.gov](mailto:apa.housespeaker@legis.la.gov), Office of the State Register, [Reg.Submission@la.gov](mailto:Reg.Submission@la.gov)

5. The behavior and personal responsibility of children.

6. The ability of the family or a local government to perform this function.

#### Poverty Statement

The proposed Rule will have no known impact on poverty as described in R.S. 49:973.

#### Small Business Analysis

The proposed Rule will have no known adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting this proposed amendment to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### Provider Impact Statement

The proposed Rule will have no known or foreseeable effect on:

1. The staffing levels requirements or qualifications required to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

Any interested person may submit written data, views, arguments or comments regarding these proposed amendments to Brad Blanchard, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4 p.m., Tuesday, January 23, 2024.

#### Public Hearing

A public hearing will be held on Wednesday, January 24, 2024, at 10 a.m. in the River Room, on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802. Should individuals with a disability need an accommodation in order to participate, contact Brad Blanchard at the address given above in the Public Comments section, by phone at (225) 219-2780, or by email at [LDRadarequests@la.gov](mailto:LDRadarequests@la.gov).

Kevin J. Richard, CPA  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Election of Pass-Through Entities

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Louisiana Department of Revenue ("LDR") will incur one-time costs of \$81,360 in FY 24 for computer system development and testing, modification to tax forms, and Revenue Processing Center scanners.

The purpose of the proposed amendment is to implement Act 450 of the 2023 Regular Session of the Louisiana Legislature relative to the pass-through entity (PTE) election provided for in R.S. 47:287.732.2. Act 450 authorizes the use of the pass-through entity exclusion of net income or loss by estates, trusts, and partnerships. Act 450 additionally authorizes an application process to be administered by LDR that would allow the termination of pass-through entity status in the

taxable year following submission and disallows additional status changes for the following five taxable years.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The impact on state revenue collections is indeterminable. LDR does not have the information necessary to estimate the impact. There are possible individual scenarios where overall state tax receipts will decrease and possible scenarios where overall state tax receipts will increase. Each situation is dependent on the estate or trust's tax situation and the entity actually making the election, which cannot be predicted.

The proposed rule addresses the authorization for fiduciary entities who are members, partners, or shareholders of an entity that made the election to exclude any income or loss from that pass-through entity from their taxable income. Partnership provisions are already in current practice and would be of no effect since partnerships do not pay income tax.

The rule also addresses the authorization of a prospective termination of pass-through entity status by application to LDR once per five years. The resulting impact on state tax revenue may be either negative or positive, and thus is indeterminable.

With no local income tax, there is no impact to local governmental revenue as a result of this rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

Businesses will need to submit an application to the Department in order to apply for termination of the election. Additional costs for completion and submission of the required paperwork of this proposed rule are expected to be minor.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No material impact on competition or employment is anticipated due to this proposal.

Kevin J. Richard, CPA  
Secretary  
2312#046

Deborah A. Vivien  
Chief Economist  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Revenue Tax Policy and Planning Division

Open Meetings via Electronic Means  
(LAC 61:III.Chapter 2)

Under the authority of R.S. 42:14(E), 42:17.2 and 47:1511, and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Revenue, Tax Policy and Planning Division, proposes to adopt LAC 61:III.201, 203, 205, and 207 relative to Louisiana's open meetings law.

Act 393 of the 2023 Regular Session amended R.S. 42:17.2 of Louisiana's Open Meetings law to permit certain, eligible public bodies and agencies to conduct its open meetings via electronic means (e.g., videoconference or teleconference). Regardless of its eligibility status, agencies are required by R.S. 42:14(E) to provide electronic or alternate participation in open meetings as an ADA accommodation for people with disabilities. In order to implement such provisions, R.S. 42:14(E) requires agencies to promulgate rules in accordance with the Administrative Procedures Act. The Department of Revenue meets the criteria set forth in R.S. 42:17.2 for eligibility to conduct open public meetings via electronic means. Therefore, the

primary purpose of this proposed regulation is to promulgate rules as required by R.S. 42:14(E) and R.S. 42:17.2.

#### **Title 61**

### **REVENUE AND TAXATION**

#### **Part III. Administrative and Miscellaneous Provisions** **Chapter 2. Open Meetings via Electronic Means** **Policy**

##### **§201. Postings Prior to Meeting via Electronic Means**

A. The Department of Revenue shall provide notice in accordance with R.S. 42:17.2 on the department's website at [www.revenue.louisiana.gov](http://www.revenue.louisiana.gov).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:14(E), R.S. 42:17.2 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Policy and Planning Division, LR 50:

##### **§203. Electronic Meeting Requirements and Limitations**

A. For any meeting conducted via electronic means, the Department of Revenue shall ensure compliance with all requirements outlined in R.S. 42:17.2(C).

B. An online archive of any open meetings conducted via electronic means shall be maintained and available for two years on the agency's website at [www.revenue.louisiana.gov](http://www.revenue.louisiana.gov).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:14(E), R.S. 42:17.2 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Policy and Planning Division, LR 50:

##### **§205. Disability Accommodations**

A. Although an open meeting may be scheduled as in-person, the Department of Revenue is obligated to provide for participation via electronic means on an individualized basis by people with disabilities.

B. People with disabilities are defined as any of the following:

1. a member of the public with a disability recognized by the Americans with Disabilities Act (ADA);
2. a designated caregiver of such a person; or
3. a participant member of the agency with an ADA-qualifying disability.

C. The Department of Revenue shall ensure that the written public notice for an open meeting, as required by R.S. 42:19, includes the name, telephone number and email address of the designated agency representative to whom a disability accommodation may be submitted.

D. The requestor with an accommodation will receive a teleconference and/or video conference link for participation via electronic means as soon as possible following receipt of the request, but no later than the start of the scheduled meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:14(E), R.S. 42:17.2 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Policy and Planning Division, LR 50:

#### **Family Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule will have no known or foreseeable effect on:

1. The stability of the family.
2. The authority and rights of parents regarding the education and supervision of their children.
3. The functioning of the family.
4. Family earnings and family budget.
5. The behavior and personal responsibility of children.
6. The ability of the family or a local government to perform this function.

#### **Poverty Statement**

This proposed Rule will have no foreseeable impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting this proposed amendment to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Provider Impact Statement**

The proposed Rule will have no known or foreseeable effect on:

1. The staffing levels requirements or qualifications required to provide the same level of service.
2. The total direct and indirect effect on the cost to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Any interested person may submit written data, views, arguments or comments regarding these proposed amendments to Christina Junker, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4 p.m., Wednesday, December 20, 2023.

#### **Public Hearing**

A public hearing will be held on Thursday, December 21, 2023, at 10 AM in the River Room, on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802. Should individuals with a disability need an accommodation in order to participate, contact Christina Junker at the address given above in the Public Comments section, by phone at (225) 219-7823, or by e-mail at [christina.junker2@la.gov](mailto:christina.junker2@la.gov).

Kevin J. Richard, CPA  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT** **FOR ADMINISTRATIVE RULES** **RULE TITLE: Open Meetings via Electronic Means**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The purpose of this proposed rule is to implement the provisions of La. R.S. 42:14(E) and 42:17.2 enacted by ACT 393 of the 2023 Regular Session of the Louisiana Legislature.

La. R.S. 42:14(E) requires agencies (with certain exceptions) to provide electronic or alternate participation in open meetings as an ADA accommodation for people with disabilities. Additionally, La. R.S. 42:17.2 was amended to permit certain eligible public bodies and agencies to conduct open meetings via electronic means (e.g., videoconference or teleconference).

Louisiana Department of Revenue's (LDR) implementation costs are expected to be minimal. Zoom is the predominant video conference software utilized by state agencies. The cost for a commercial Zoom license starts at \$150 per year but may be higher depending on the needs of the meeting. Alternatives such as Skype and GoTo Meeting are also available. Additional features such as captioning and webinar software to provide moderated public participation may pose additional costs. For example, a Zoom Webinars license for up to 500 attendees costs \$690 per year. An online archive of any open meetings conducted via electronic means shall be maintained and available for two years on the agency's website.

The agency currently has sufficient funding to implement the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is not anticipated to have any effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs to directly affected persons, small businesses, or non-governmental groups. To the extent someone is able to attend a meeting via electronic means that might not otherwise be able to, an economic impact may result.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition or employment.

Kevin J. Richard  
Secretary  
2312#010

Deborah A. Vivien  
Chief Economist  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Transportation and Development Professional Engineering and Land Surveying Board

#### Boundary Surveys—Standards of Practice (LAC 46:LXI.2903, 2905, 2910 and 2913)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to adopt LAC 46:LXI.2910 and to amend its rules contained in LAC 46:LXI.2903, 2905 and 2913.

This is an adoption of a new rule, as well as a revision of existing rules under which LAPELS operates. The new Rule provides for DOTD right-of-way surveys. The revision updates terminology for boundary surveys and clarifies surveying closure requirements for small tracts. The anticipated effective date of this proposed new Rule and these proposed Rule amendments is the date of promulgation.

## Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part LXI. Professional Engineers and Land Surveyors Chapter 29. Standards of Practice for Boundary Surveys

#### §2903. Definitions

A. Any terms not specifically defined herein shall be as defined in the most current publication of *Definitions of Surveying and Associated Terms* as published by the National Society of Professional Surveyors. For the purpose of this Chapter, all the definitions listed that differ from any other source are to be interpreted as written herein.

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*Right-of-Way*—any strip or area of land, including surface, overhead, or underground, encumbered by a servitude. Rights are typically granted by deed for access or for construction, operation and/or maintenance purposes, according to the terms of the grant.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1064 (December 1990), amended LR 22:713 (August 1996), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1042 (July 2001), LR 30:1725 (August 2004), LR 37:2414 (August 2011), LR 50:

#### §2905. Classification of Boundary Surveys

A. Types of Boundary Surveys. Four types of boundary surveys, which relate to or define property boundaries, are regulated by these standards of practice. These are property boundary surveys, route surveys, DOTD right-of-way surveys and mineral unitization surveys.

B. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1065 (December 1990), amended LR 22:714 (August 1996), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1043 (July 2001), LR 30:1726 (August 2004), LR 37:2415 (August 2011), LR 44:627 (March 2018), LR 50:

#### §2910. DOTD Right-of-Way Survey

A. Definition

*DOTD Right-of-Way Survey*—a survey for determining the route of a proposed public road or other linear facilities in order for the Department of Transportation and Development or another governmental agency to acquire ownership of real property, or a public servitude or easement, from the property owner being crossed.

B. Scope and Product. A DOTD right-of-way survey shall, as a minimum, consist of the following elements.

1. The professional land surveyor shall utilize sufficient title information and research as needed to define the tract boundaries.

2. The professional land surveyor shall locate sufficient evidence, on the ground, to determine the location of all boundary lines that will be crossed by the real property, or the proposed public servitude or easement, to be acquired. Installation of new monuments is not required