

Regular Session, 2010

HOUSE BILL NO. 1363

BY REPRESENTATIVE KLECKLEY

CIVIL SERVICE/FIRE & POL: Provides that the position of deputy chief of police is in the unclassified service

1 AN ACT

2 To enact R.S. 33:2481.4 and 2541.1, relative to the municipal police civil service; to  
3 authorize the municipal governing authority to create the position of deputy chief of  
4 police; to provide that the position is in the unclassified service; to provide relative  
5 to the appointment, supervision, and discharge of any person in any such position;  
6 to provide relative to the qualifications, duties, and responsibilities for such position;  
7 to provide relative to resignation from the position and return to the classified police  
8 service; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 33:2481.4 and 2541.1 are hereby enacted to read as follows:

11 §2481.4. Deputy chief of police; unclassified service

12 A. Notwithstanding any other provision of law to the contrary, the governing  
13 authority may create, by ordinance, the position of deputy chief of police in  
14 accordance with the provisions of this Section. The position shall be in the  
15 unclassified service, and the right of selection from a promotional list of qualified  
16 applicants as well as the appointment, supervision, and discharge for such position  
17 is vested in the chief of police, subject to approval of the appointing authority. In  
18 addition, the governing authority shall establish the duties and responsibilities of the  
19 deputy chief of police in the ordinance creating the position. Such duties and  
20 responsibilities may include direct supervision over all positions in the classified

1 service below the rank of assistant chief of police. The position of deputy chief of  
2 police is not the same as the position of assistant chief of police as provided in R.S.  
3 33:2481(A)(1).

4 B.(1) The deputy chief of police shall have not less than eight years of full  
5 time law enforcement experience and shall at least hold the rank of sergeant in the  
6 classified police service at the time of his appointment.

7 (2)(a) Any person appointed to the position of deputy chief of police shall  
8 have received a passing score on the promotion test for the next highest class in the  
9 classified police service prior to his appointment as deputy chief of police.

10 (b) Any person who holds the position of deputy chief of police shall be  
11 eligible for a promotion in a lower class of the classified police service while holding  
12 any such position.

13 (3) The chief of police shall not appoint any person to the position of deputy  
14 chief of police who is not a member of the same department as the chief of police at  
15 the time of appointment.

16 C. Any person who resigns from a position in the classified police service  
17 to serve as deputy chief of police shall not forfeit his seniority accumulated to the  
18 date of his resignation, and he shall continue to accumulate seniority during the time  
19 he holds the position of deputy chief of police. If any such person resigns from the  
20 position of deputy chief of police or is removed without cause, he shall be  
21 reemployed to a position in the classified police service which requires a rank not  
22 lower than the rank he held immediately preceding his resignation from the classified  
23 police service. If a deputy chief of police is removed for cause he shall have the  
24 same rights as any other employee in the municipal fire and police civil service.

25 \* \* \*

26 §2541.1. Deputy chief of police; unclassified service

27 A. Notwithstanding any other provision of law to the contrary, the governing  
28 authority may create, by ordinance, the position of deputy chief of police in  
29 accordance with the provisions of this Section. The position shall be in the

1 unclassified service, and the right of selection from a promotional list of qualified  
2 applicants as well as the appointment, supervision, and discharge for such position  
3 is vested in the chief of police, subject to approval of the appointing authority. In  
4 addition, the governing authority shall establish the duties and responsibilities of the  
5 deputy chief of police in the ordinance creating the position. Such duties and  
6 responsibilities may include direct supervision over all positions in the classified  
7 service below the rank of assistant chief of police. The position of deputy chief of  
8 police is not the same as the position of assistant chief of police which is in the  
9 classified police service pursuant to this Part.

10 B.(1) The deputy chief of police shall have not less than eight years of full  
11 time law enforcement experience and shall at least hold the rank of sergeant in the  
12 classified police service at the time of his appointment.

13 (2)(a) Any person appointed to the position of deputy chief of police shall  
14 have received a passing score on the promotion test for the next highest class in the  
15 classified police service prior to his appointment as deputy chief of police.

16 (b) Any person who holds the position of deputy chief of police shall be  
17 eligible for a promotion in a lower class of the classified police service while holding  
18 any such position.

19 (3) The chief of police shall not appoint any person to the position of deputy  
20 chief of police who is not a member of the same department as the chief of police at  
21 the time of appointment.

22 C. Any person who resigns from a position in the classified police service  
23 to serve as deputy chief of police shall not forfeit his seniority accumulated to the  
24 date of his resignation, and he shall continue to accumulate seniority during the time  
25 he holds the position of deputy chief of police. If any such person resigns from the  
26 position of deputy chief of police or is removed without cause, he shall be  
27 reemployed to a position in the classified police service which requires a rank not  
28 lower than the rank he held immediately preceding his resignation from the classified

1        police service. If a deputy chief of police is removed for cause he shall have the  
 2        same rights as any other employee in the municipal fire and police civil service.

3        Section 2. The provisions of this Act shall not be construed to require any governing  
 4 authority to create the position of deputy chief of police. In addition, the provisions of this  
 5 Act shall not affect any person employed in the classified police service on the effective date  
 6 of this Act who is in the second highest class in the classified police service at the rank of  
 7 assistant chief of police, deputy chief of police, or similarly named second highest rank.  
 8 Any such person shall continue to hold such rank and shall continue to be employed in the  
 9 classified police service on and after the effective date of this Act.

10        Section 3. This Act shall become effective upon signature by the governor or, if not  
 11 signed by the governor, upon expiration of the time for bills to become law without signature  
 12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 13 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 14 effective on the day following such approval.

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#### 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 or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Kleckley

HB No. 1363

**Abstract:** Authorizes the governing authority to create the unclassified position of deputy police chief. Provides further with respect to the right of selection, appointment, supervision, and discharge for such position and provides relative to the resignation from the position and return to the classified service.

Present constitution creates a fire and police civil service system applicable to municipalities of over 13,000 in population and parishes and fire protection districts. Provides that the system is subject to Art. XIV, §15.1 of the 1921 constitution made statutory by the 1974 constitution. Present law creates and provides for two fire and police civil service systems: (1) one applicable to any municipality which operates paid police and fire departments and which has a population of not fewer than 13,000 persons; and (2) one applicable to any parish, fire protection district, or municipality with a population of fewer than 13,000, but not fewer than 7,000 persons. Present constitution authorizes modifications to such systems (by law adopted by 2/3 of each house of the legislature in the case of provisions of Art. XIV, §15.1 of the 1921 constitution made statutory by the constitution of 1974) but prohibits the legislature from abolishing the system or making it inapplicable to covered jurisdictions.

Present law retains present constitution and present law.

Present law relative to both systems, provides that the classified service shall comprise every position, except those in the unclassified service to which the right of employee selection,

appointment, supervision, and discharge is vested in the municipal government. Provides that the positions of police chief and assistant police chief shall be in the classified service. Provides further with respect to which positions are in the classified and unclassified service.

Proposed law retains present law and additionally authorizes the governing authority to create, by ordinance, the unclassified position of deputy police chief. Provides that the position of deputy police chief is not the same as the position of assistant police chief as provided in present law. Further provides that the right of selection from a promotional list of qualified applicants as well as the appointment, supervision, and discharge for the position is vested in the police chief, subject to the approval of the appointing authority. Requires the governing authority to provide for the duties and responsibilities of the deputy police chief in the ordinance creating the position. Provides that the deputy police chief may have direct supervision over all positions in the classified service below the rank of assistant police chief.

Proposed law requires the deputy police chief to have at least eight years of full time law enforcement experience and to at least hold the rank of sergeant in the classified police service at the time of his appointment. Further requires any person appointed to deputy police chief to receive a passing score on the promotion test for the next highest class in the classified police service prior to his appointment as deputy police chief.

Proposed law provides that a person who holds the position of deputy police chief shall be eligible for a promotion in a lower class of the classified police service. Prohibits the police chief from appointing any person to the position of deputy police chief who is not a member of the same department as the police chief at the time of appointment.

Proposed law provides that any person who resigns from a position in the classified police service to serve as deputy police chief shall not forfeit his seniority accumulated to the date of his resignation. Provides that such person shall accumulate seniority during the time he is serving as deputy chief. Further provides that if any person resigns the position of deputy police chief or is removed without cause, he shall be reemployed to a position in the classified police service which requires a rank not lower than the rank he held immediately preceding his resignation from the classified police service. Provides that a person who is removed for cause has the same rights as any other employee in the classified fire and police service.

Proposed law provides that the provisions of proposed law shall not be construed to require any governing authority to create the position of deputy police chief. Additionally provides that the provisions of proposed law shall not affect any person employed in the classified police service on the effective date of proposed law who is in the second highest class in the classified police service at the rank of assistant chief of police or deputy chief of police, or similarly named second highest rank. Provides that any such person shall continue to hold such rank and shall continue to be employed in the classified police service on and after the effective date of proposed law.

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

(Adds R.S. 33:2481.4 and 2541.1)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Municipal, Parochial and Cultural Affairs to the original bill.

1. Authorizes the governing authority to create the position of deputy police chief.
2. Provides that the right of selection, supervision, and appointment of the deputy police chief by the police chief is subject to the approval of the appointing

authority. Requires the police chief to select qualified applicants from a promotional list.

3. Removes provisions that require the police chief to establish the duties and responsibilities of the deputy police chief and instead requires the governing authority to establish such duties and responsibilities in the ordinance creating the position. Adds a provision that the deputy police chief may have direct supervision over all positions in the classified service below the rank of assistant police chief.
4. Clarifies that the position of deputy police chief is not the same as the position of assistant police chief, which is in the classified service.
5. Changes a provision of proposed law to require the deputy police chief to have at least eight years rather than 10 years of full time law enforcement experience.
6. Relative to reemployment in the classified service of a person who is removed from the deputy chief position, requires such reemployment if such person is removed without cause rather than if such person is removed for any reason other than malfeasance in office. Adds provisions that give a person removed for cause from the position of deputy chief of police the same rights as any other employee in the classified fire and police service.
7. Changes a provision of proposed law to provide that the provisions of proposed law shall not be construed to require any governing authority, rather than any police chief, to create the position of deputy police chief.