

Regular Session, 2010

HOUSE BILL NO. 381

BY REPRESENTATIVE MONTOUCET

CIVIL SERVICE/FIRE & POL: Provides relative to the political activities of employees of the municipal fire and police civil service

1 AN ACT

2 To amend and reenact R.S. 33:2504 and 2564, relative to municipal fire and police civil  
3 service; to authorize the employees of such service to participate in certain political  
4 activities; to provide limitations; to prohibit certain efforts to influence the political  
5 activity of such employees; to provide penalties for violations; and to provide for  
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 33:2504 and 2564 are hereby amended and reenacted to read as  
9 follows:

10 §2504. Political activities ~~prohibited~~

11 ~~A. Political activities by and extending to employees of the classified service~~  
12 ~~are hereby prohibited as follows:~~

13 ~~(1) No person shall seek or attempt to use any political endorsement in~~  
14 ~~connection with any appointment to a position in the classified service.~~

15 ~~(2) No person shall use or promise to use, directly or indirectly, any official~~  
16 ~~authority or influence, whether possessed or anticipated, to secure or attempt to~~  
17 ~~secure for any person an appointment or advantage in appointment to a position in~~  
18 ~~the classified service, or an increase in pay or other advantage in employment in any~~  
19 ~~such position, for the purpose of influencing the vote or political action of any~~  
20 ~~person, or for any consideration.~~

1           ~~(3) No employee in the classified service shall, directly or indirectly, pay,~~  
2           ~~or promise to pay, any assessment, subscription, or contribution for any political~~  
3           ~~organization or purpose, or solicit or take part in soliciting any such assessment,~~  
4           ~~subscription, or contribution. No person shall solicit any such assessment,~~  
5           ~~subscription, or contribution of any employee in classified service. The prohibitions~~  
6           ~~of this Sub-section shall not be construed as applying to membership dues paid, or~~  
7           ~~contributions made, to non-political employee organizations, pension funds, civic~~  
8           ~~enterprises, the Louisiana Civil Service League or any similar non-political and non-~~  
9           ~~partisan organization.~~

10           ~~(4) No employee in the classified service shall (a) be a member of any~~  
11           ~~national, state, or local committee of a political party, (b) be an officer or member~~  
12           ~~of a committee of any factional, political club or organization, (c) be a candidate for~~  
13           ~~nomination or election to public office, (d) make any political speech or public~~  
14           ~~political statement in behalf of any candidate seeking to be elected to public office,~~  
15           ~~or (e) take any part in the management or affairs of any political party or in the~~  
16           ~~political campaign of any candidate for public office, except to privately express his~~  
17           ~~opinion and to cast his vote.~~

18           ~~(5) No person elected to public office shall, while serving in the elective~~  
19           ~~office, be appointed to or hold any position in the classified service.~~

20           ~~(6) No appointing authority, or agent or deputy thereof, shall directly or~~  
21           ~~indirectly, demote, suspend, discharge, or otherwise discipline, or threaten to demote,~~  
22           ~~suspend, discharge or otherwise discipline, or discriminate against any person in the~~  
23           ~~classified service for the purpose of influencing his vote, support, or other political~~  
24           ~~activity in any election or primary election. No appointing authority, or agent or~~  
25           ~~deputy thereof, shall use his official authority or influence, by threats, promises or~~  
26           ~~other means, directly or indirectly, to coerce the political action of any employee in~~  
27           ~~the classified service.~~

28           ~~B. The appointing authority shall discharge from the service any employee~~  
29           ~~whom he deems guilty of violating any one or more of the provisions of this Section.~~

1        ~~The board may, upon its own initiative, investigate any officer or employee in the~~  
2        ~~classified service whom it reasonably believes guilty of violating any one or more~~  
3        ~~of the provisions. Any citizen, taxpayer, municipal officer, or employee may file~~  
4        ~~with the board detailed charges in writing against any employee in the classified~~  
5        ~~service for violating any one or more of the provisions of this Section. The board~~  
6        ~~shall, within thirty days after receiving the written charges, hold a public hearing and~~  
7        ~~investigation and determine whether such charges are true and correct. If the board~~  
8        ~~should find upon its investigation of any employee that he has violated any of the~~  
9        ~~foregoing provisions, the board shall order the appointing authority to forthwith~~  
10       ~~discharge the guilty employee from the service and the appointing authority shall~~  
11       ~~forthwith discharge the employee.~~

12            ~~C. Whoever violates this Section shall be subject to the penalties provided~~  
13        ~~in R.S. 33:2507. In addition any employee in the classified service who is~~  
14        ~~discharged because of violating a foregoing provision shall not again be eligible for~~  
15        ~~employment or public office in the classified service for a period of six years from~~  
16        ~~the time of his discharge.~~

17            A.(1) Notwithstanding the provisions of any state, parish, municipal, or other  
18        local law or charter to the contrary, any employee of the classified service may be  
19        a candidate for nomination or election to public office if he meets applicable  
20        qualifications. Any such employee may also participate in political activities by  
21        supporting or opposing political parties, political candidates, and petitions to  
22        governmental entities.

23            (2) Notwithstanding the provisions of Paragraph (1) of this Subsection,  
24        unless otherwise authorized by state, parish, municipal, or other local law or charter,  
25        no employee of the classified service shall be a member of the municipal governing  
26        authority or mayor in the municipality that employs him pursuant to this Part.

27            B. No appointing authority, or agent or deputy thereof, shall, directly or  
28        indirectly, demote, suspend, discharge, or otherwise discipline or discriminate  
29        against any employee in the classified service for the purpose of influencing his vote,

1 support, or other political activity in any election. No appointing authority, or agent  
2 or deputy thereof, shall use his official authority or influence, by threats, promises,  
3 or other means, directly or indirectly, to coerce the political action of any employee  
4 in the classified service.

5 C. Any person who violates the provisions of this Section shall be guilty of  
6 a misdemeanor and, upon conviction thereof, is subject to a fine not to exceed five  
7 hundred dollars or imprisonment not to exceed six months.

8 \* \* \*

9 §2564. Political activities ~~prohibited~~

10 ~~A. Political activities by and extending to employees of the classified service~~  
11 ~~are hereby prohibited as follows~~

12 ~~(1) No person shall seek or attempt to use any political endorsement, in~~  
13 ~~connection with any appointment to a position in the classified service.~~

14 ~~(2) No person shall use or promise to use directly or indirectly, any official~~  
15 ~~authority or influence, whether possessed or anticipated, to secure or attempt to~~  
16 ~~secure for any person an appointment or advantage in appointment to a position in~~  
17 ~~the classified service, or an increase in pay or other advantage in employment in any~~  
18 ~~such position, for the purpose of influencing the vote or political action of any~~  
19 ~~person, or for any consideration.~~

20 ~~(3) No employee in the classified service shall, directly or indirectly, pay or~~  
21 ~~promise to pay any assessment, subscription, or contribution for any political~~  
22 ~~organization or purpose, or solicit or take part in soliciting any such assessment,~~  
23 ~~subscription, or contribution. No person shall solicit any such assessment,~~  
24 ~~subscription or contribution of any employee in the classified service. The~~  
25 ~~prohibitions of this paragraph (3) shall not be construed as applying to membership~~  
26 ~~dues paid or contributions made to non-political employee organizations, pension~~  
27 ~~funds, civic enterprises, the Louisiana Civil Service League or any similar non-~~  
28 ~~political and non-partisan organization.~~

1           ~~(4) No employee in the classified service shall (a) be a member of any~~  
2           ~~national, state, or local committee of a political party, (b) be an officer or member~~  
3           ~~of a committee of any factional or political club or organization, (c) be a candidate~~  
4           ~~for nomination or election to public office, (d) make any political speech or public~~  
5           ~~political statement in behalf of any candidate seeking to be elected to public office,~~  
6           ~~or (e) take any part in the management or affairs of any political party or in the~~  
7           ~~political campaign of any candidate for public office, except to privately express his~~  
8           ~~opinion and to cast his vote.~~

9           ~~(5) No person elected to public office shall, while serving in the elective~~  
10          ~~office, be appointed to or hold any position in the classified service.~~

11          ~~(6) No appointing authority, or agent or deputy thereof, shall directly or~~  
12          ~~indirectly, demote, suspend, discharge or otherwise discipline or discriminate against~~  
13          ~~any person in the classified service for the purpose of influencing his vote, support,~~  
14          ~~or other political activity in any election or primary election. No appointing~~  
15          ~~authority, or agent or deputy thereof, shall use his official authority or influence, by~~  
16          ~~threats, promises or other means, directly or indirectly to coerce the political action~~  
17          ~~of any employee in the classified service.~~

18          ~~B. The appointing authority shall discharge from the service any employee~~  
19          ~~whom it deems guilty of violating any one or more of the provisions to this Part. The~~  
20          ~~board may, upon its own initiative, investigate any officer or employee in the~~  
21          ~~classified service whom it reasonably believes guilty of violating any one or more~~  
22          ~~of the provisions of this Part. The board shall, within thirty days after receiving the~~  
23          ~~written charges, hold a public hearing and investigation and determine whether such~~  
24          ~~charges are true and correct. If the board should find upon its investigation of any~~  
25          ~~employee that he has violated any of the foregoing provisions, the board shall order~~  
26          ~~the appointing authority to forthwith discharge the guilty employee from the service~~  
27          ~~and the appointing authority shall forthwith discharge the employee.~~

28          ~~C. Whoever violates this Part shall be subject to the penalties provided in~~  
29          ~~R.S. 33:2567. In addition any employee in the classified service who is discharged~~

1 ~~because of violating any of the foregoing provisions shall not again be eligible for~~  
2 ~~employment or public office in the classified service for a period of six years from~~  
3 ~~the time of his discharge.~~

4 A.(1) Notwithstanding the provisions of any state, parish, municipal, or other  
5 local law or charter to the contrary, any employee of the classified service may be  
6 a candidate for nomination or election to public office if he meets applicable  
7 qualifications. Any such employee may also participate in political activities by  
8 supporting or opposing political parties, political candidates, and petitions to  
9 governmental entities.

10 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection,  
11 unless otherwise authorized by state, parish, municipal, or other local law or charter,  
12 no employee of the classified service shall be a member of the parish governing  
13 authority or parish president in the parish that employs him pursuant to this Part or  
14 a member of the municipal governing authority or mayor in the municipality that  
15 employs him pursuant to this Part.

16 B. No appointing authority, or agent or deputy thereof, shall, directly or  
17 indirectly, demote, suspend, discharge, or otherwise discipline or discriminate  
18 against any employee in the classified service for the purpose of influencing his vote,  
19 support, or other political activity in any election. No appointing authority, or agent  
20 or deputy thereof, shall use his official authority or influence, by threats, promises,  
21 or other means, directly or indirectly, to coerce the political action of any employee  
22 in the classified service.

23 C. Any person who violates the provisions of this Section shall be guilty of  
24 a misdemeanor and, upon conviction thereof, is subject to a fine not to exceed five  
25 hundred dollars or imprisonment not to exceed six months.

26 Section 2. This Act shall take effect and become operative if and when the proposed  
27 amendment of Article X of the Constitution of Louisiana contained in the Act which  
28 originated as House Bill No. \_\_\_\_\_ of this 2010 Regular Session of the Legislature is  
29 adopted at the statewide election to be held in 2010 and becomes effective.

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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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Montoucet

HB No. 381

**Abstract:** Authorizes employees of the classified fire and police civil service to participate in certain political activities.

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 Const. of La. made statutory by the 1974 Const. of La. 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 vote of each house of the legislature in the case of provisions of Art. XIV, §15.1 of the 1921 Const. of La. made statutory by the Const. of 1974) but prohibits the legislature from abolishing the system or making it inapplicable to covered jurisdictions.

Proposed law retains present constitution and present law.

Present law, relative to both systems, provides that political activities by and extending to employees of the classified service are prohibited as follows:

- (1) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the classified service.
- (2) No person shall use any official influence to secure for any person an appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position for the purpose of influencing the vote or political action of any person or for any consideration.
- (3) No employee in the classified service shall pay any assessment, subscription, or contribution for any political organization or purpose, or solicit or take part in soliciting any such assessment, subscription, or contribution.
- (4) No employee in the classified service shall:
  - (a) Be a member of any national, state, or local committee of a political party.
  - (b) Be an officer or member of a committee of any factional, political club, or organization.
  - (c) Be a candidate for nomination or election to public office.
  - (d) Make any political speech or public political statement on behalf of any candidate seeking to be elected to public office.
  - (e) Take any part in the management or affairs of any political party or in the political campaign of any candidate for public office, except to privately express his opinion and to cast his vote.

- (5) No person elected to public office shall, while serving in the elective office, be appointed to or hold any position in the classified service.

Proposed law removes the provisions of present law and authorizes any employee of the classified service to be a candidate for nomination or election to public office if he meets applicable qualifications. Additionally authorizes any such employee to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities.

Proposed law prohibits a employee of the classified service from being a member of the municipal or parish governing authority or mayor or parish president in the parish or municipality that employs him, unless otherwise authorized by state, parish, municipal, or other local law or charter.

Present law provides that no appointing authority shall discipline or threaten to discipline or discriminate against any person in the classified service for the purpose of influencing his vote, support, or other political activity in any election. Provides that no appointing authority shall use his official influence to coerce the political action of any employee in the classified service. Proposed law retains present law.

Present law requires the appointing authority to discharge from the service any employee whom he deems guilty of violating present law. Authorizes the board to investigate any officer or employee in the classified service whom it reasonably believes guilty of violating any one or more of the provisions. Authorizes any citizen, taxpayer, municipal officer, or employee to file with the board detailed charges in writing against any employee in the classified service for violating any one or more of the provisions of present law. Requires the board to hold a public hearing and investigation and determine whether such charges are true and correct. Provides that if the board should find that an employee has violated present law, the board shall order the appointing authority to discharge the guilty employee. Proposed law deletes present law.

Present law provides that whoever violates the provisions of present law shall be fined not more than \$500 and shall, for a period of six years, be ineligible for appointment to or employment in any position of the classified service. Proposed law removes provisions of present law and provides that any person who violates proposed law shall be guilty of a misdemeanor and is subject to a fine not to exceed \$500 or imprisonment not to exceed six months.

Effective if and when the proposed amendment of Art. X of the Const. of La. contained in the Act which originated as House Bill No. \_\_\_\_\_ of this 2010 R.S. is adopted at the statewide election and becomes effective.

(Amends R.S. 33:2504 and 2564)