

Regular Session, 2010

HOUSE BILL NO. 723

BY REPRESENTATIVE CONNICK

ELECTED OFFICIALS: Provides with respect to dual officeholding and dual employment

1 AN ACT

2 To amend and reenact R.S. 42:65(A) and (C), relative to dual officeholding and dual
3 employment; to provide relative to remedies and penalties related thereto; and to
4 provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 42:65(A) and (C) are hereby amended and reenacted to read as
7 follows:

8 §65. Civil remedy; penalty

9 A.(1) The attorney general, a district attorney, or any citizen of the state of
10 Louisiana may by summary process petition for a declaratory judgment against a
11 person alleged to be holding or to have held incompatible offices or employments
12 or holding or have held a combination of offices or employments prohibited in this
13 Part. Venue for the suit for a declaratory judgment shall be at the domicile of the
14 defendant who is or was employed or at the official domicile of any office held by
15 the defendant.

16 (2) Whether a person has vacated an incompatible or prohibited office or
17 employment prior to the filing of the suit for declaratory judgment or prior to
18 issuance of a final judgment in the suit shall not prohibit the court from declaring
19 that the person has held incompatible offices or employments or a combination of

1 offices or employments prohibited in this Part and ordering reimbursement pursuant
2 to Subsection C of this Section.

3 * * *

4 C. The court may order the reimbursement to the appropriate governmental
5 body of all pay or other compensation and all allowances, including all allowances
6 and payments for travel and other expenses which have been received by the official
7 or employee in the position vacated ~~as provided in Subsection B hereof~~, during a
8 period of time not to exceed six months preceding the filing of suit for declaratory
9 judgment. If, however, the person against whom a declaratory judgment is rendered
10 has obtained an opinion of the attorney general issued prior to the filing of the suit
11 for a declaratory judgment stating that the combination of offices or employments
12 are not incompatible, and are not in violation of this Part, the court shall comply with
13 Subsection B of this Section; however, the person against whom the declaratory
14 judgment was rendered shall not be required to return any portion of the
15 compensation or allowances received by him prior to the date on which the
16 declaratory judgment becomes final. Whenever any person requests an opinion of
17 the attorney general concerning the offices or employments covered hereby, he shall
18 at the same time provide to the attorney general information describing each of the
19 employments or offices concerning which he requests the opinion, the number of
20 hours worked or normally expected to be worked by him per each day of work for
21 each of such employments or offices, the number of hours worked by him per week
22 for such employments or offices, and shall thereafter furnish any other information
23 the attorney general deems necessary for the issuance of the opinion.

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)]

Connick

HB No. 723

Abstract: Provides that a court may declare that a person has held incompatible offices or employments or a combination of offices or employments prohibited by the dual officeholding and employment laws and order reimbursement of compensation whether the person has vacated an incompatible or prohibited office or employment prior to the filing of the suit for declaratory judgment or prior to issuance of a final judgment in the suit.

Present law regulates dual officeholding and dual employment in order to prevent conflicts of interest and to promote and maintain citizen trust in government. Prohibits a person from holding certain offices and employment at the same time.

Present law (R.S. 42:65) provides that the attorney general, a district attorney, or any citizen of the state of La. may by summary process petition for a declaratory judgment against a person alleged to be holding incompatible offices or employments or holding a combination of offices or employments prohibited in present law. Provides that if the court declares that the person is holding offices or employments in violation of present law, the court shall declare the office with the term first to expire or one of the employments vacant and shall enjoin the person from further carrying out the duties of that office or employment.

Present law provides that the court may order the reimbursement to the appropriate governmental body of all pay or other compensation and all allowances, including all allowances and payments for travel and other expenses which have been received by the official or employee in the position vacated as provided in present law, during a period of time not to exceed six months preceding the filing of suit for declaratory judgment. Provides an exception to this reimbursement provision if the person has obtained an opinion of the attorney general issued prior to the filing of the suit for a declaratory judgment stating that the combination of offices or employments are not incompatible, and are not in violation of present law.

Proposed law provides that whether a person has vacated an incompatible or prohibited office or employment prior to the filing of the suit for declaratory judgment or prior to issuance of a final judgment in the suit shall not prohibit the court from declaring that a person has held incompatible offices or employments or a combination of offices or employments prohibited in present law and ordering reimbursement pursuant to proposed law.

(Amends R.S. 42:65(A) and (C))