

2016 Regular Session

SENATE BILL NO. 130

BY SENATOR APPEL

CIVIL PROCEDURE. Prohibits certain procedures against public officers concerning the compelling of appropriations of funds. (gov sig)

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 3863 and to enact Code of Civil
3 Procedure Article 224.1, relative to public officers; to provide certain prohibitions
4 concerning writs directed to public officers; to prohibit the holding of a public officer
5 in contempt under certain circumstances; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Article 3863 is hereby amended and reenacted
8 and Code of Civil Procedure Article 224.1 is hereby enacted to read as follows:

9 **Art. 224.1. Public Officers; contempt**

10 **A court shall not hold a public officer of this state or a political**
11 **subdivision of this state in direct or constructive contempt of court for the**
12 **failure or refusal to appropriate funds if so ordered by the court when such**
13 **appropriation authority is within the discretion of the legislative branch of the**
14 **state or political subdivision.**

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16 Art. 3863. Person against whom writ directed; **prohibition of writ directed to**
17 **public officers**

1 A. A writ of mandamus may be directed to a public officer to compel the
2 performance of a ministerial duty required by law, or to a former officer or his heirs
3 to compel the delivery of the papers and effects of the office to his successor.

4 **B. A writ of mandamus shall not be directed to a public officer of this**
5 **state or a political subdivision of this state to compel the appropriation of funds**
6 **when such appropriation authority is within the discretion of the legislative**
7 **branch of the state or political subdivision.**

8 Section 2. This Act shall become effective upon signature by the governor or, if not
9 signed by the governor, upon expiration of the time for bills to become law without signature
10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
11 vetoed by the governor and subsequently approved by the legislature, this Act shall become
12 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Ben Huxen.

	DIGEST	
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Present law permits a writ of mandamus to be directed to a public officer to require the performance of a ministerial duty.

Proposed law maintains present law, but prohibits a writ of mandamus from being directed to a public officer to compel the performance of appropriation of funds when such appropriation authority is within the discretion of the legislative branch of the state or political subdivision.

Present law provides that constructive contempt constitutes, in part, the willful neglect or violation of duty by a clerk, sheriff, or other person elected, appointed, or employed to assist the court in the administration of justice.

Proposed law prevents a court from holding any elected official in constructive contempt for the failure or refusal to appropriate funds if so ordered by the court if the appropriation authority is within the discretion of the legislative branch of the state or political subdivision.

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

(Amends C.C.P. Art. 3863; adds C.C.P. Art. 224.1)