

SENATE BILL NO. 159

BY SENATOR MORRELL AND REPRESENTATIVE HAZEL

1 AN ACT

2 To enact R.S. 33:2339, relative to municipal law enforcement; to provide relative to detail
3 or secondary employment administered or managed by the city of New Orleans or
4 any other entity; to provide relative to communications; to provide relative to
5 administrative fees; to provide relative to public records; to authorize the subpoena
6 of certain records regarding detail or secondary employment; and to provide for
7 related matters.

8 Notice of intention to introduce this Act has been published.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 33:2339 is hereby enacted to read as follows:

11 **§2339. Detail or secondary employment; city of New Orleans**

12 **A.(1) The managing director and employees of the Office of Police and**
13 **Secondary Employment (OPSE), or its successor, may only communicate with**
14 **the New Orleans Police Department, its staff, officers, or superintendent**
15 **regarding matters concerning paid detail or secondary employment**
16 **assignments. All other matters shall be communicated in writing, in a**
17 **standardized format available for public review. The provisions of this**
18 **Subsection shall not apply to the Public Integrity Bureau.**

19 **(2) The provisions of this Section shall apply to any other entity which**
20 **may be created, or which supercedes OPSE, to oversee or manage paid details**
21 **or secondary employment of New Orleans city police officers.**

22 **B.(1) The office of the independent police monitor shall investigate any**
23 **complaint concerning any detail or secondary employment of a New Orleans**

1 city police officer. In addition, the office of the independent police monitor may
2 examine, review, audit, inspect, and investigate the records, books, reports,
3 documents, papers, correspondence, accounts, audits, inspections, reviews,
4 recommendations, plans, films, tapes, pictures, computer hard drives, software
5 data, hardware data, e-mails, instant messages, text messages, and any other
6 data and material relevant to any detail or secondary employment complaint
7 and may issue an administrative subpoena duces tecum to require the
8 production of books, records, documents, or other evidence deemed relevant or
9 material to an investigation. The subpoena duces tecum shall comply with all
10 applicable constitutionally established rights and processes.

11 (a) The subpoena duces tecum may be served by certified mail, return
12 receipt requested, at the addressee's residence or business address.

13 (b) The entity receiving the subpoena duces tecum may file a motion with
14 the Civil District Court for the parish of Orleans to amend or quash the
15 subpoena. The motion shall be filed any time before the date for attendance or
16 compulsion specified in the subpoena or within twenty days after the subpoena
17 duces tecum has been served, whichever is earlier. In no event shall any penalty
18 attach to the recipient of such an administrative subpoena duces tecum for
19 failure to respond without an order from the Civil District Court for the parish
20 of Orleans.

21 (c) If the subpoena duces tecum is not quashed and is not complied with
22 by the date for production of documents, the office of the independent police
23 monitor may apply to the Civil District Court for the parish of Orleans for an
24 order compelling compliance with the subpoena. Any person failing to comply
25 with the order compelling compliance shall be adjudged in contempt of court.

26 (d) Any costs and attorney's fees incurred by the office of the
27 independent police monitor shall be taxed against the person who failed or
28 refused to comply with the terms of the subpoena.

29 (e) When the office of the independent police monitor has reason to
30 believe that a person may attempt to conceal or destroy materials essential to

1 an investigation, examination, audit, or inspection, such office may apply by
2 verified petition to the Civil District Court for the parish of Orleans for an
3 order protecting the materials from concealment or destruction. The court may
4 order and fix the amount of a bond to be posted and conditioned upon
5 compliance with the terms of the subpoena. The order shall be directed to the
6 person upon whom the subpoena will be served and to any other person
7 necessary to protect the materials from concealment or destruction.

8 (2) The office of the independent police monitor may examine the
9 accounts and books of OPSE, or any other entity which may be created, or
10 which supercedes the Office of Police and Secondary Employment, to oversee
11 or manage paid details or secondary employment of New Orleans city police
12 officers.

13 C.(1) The head of OPSE shall not be within the chain of command of the
14 New Orleans Police Department but shall be bound to observe the Police
15 Officers Bill of Rights and shall be prohibited from disciplining an officer.

16 (2) The chief management officer for the OPSE shall refer all complaints
17 of unprofessional conduct to the Public Integrity Bureau.

18 D. The maximum administrative fee on hourly detail or secondary
19 employment shall be five dollars per hour.

20 E. Each assignment of paid police detail and secondary employment, as
21 well as any exempted detail or details exempted from rotation, the name of any
22 coordinator assigned to such detail, as well as the rationale given for any
23 exemption from detail policy or procedure shall be a public record subject to
24 the Public Records Law.

25 F. All communications of OPSE, its managing director and employees
26 regarding references to police officers, employees of the New Orleans Police
27 Department, and businesses and other contracting entities regarding details or
28 secondary employment shall be subject to a public records request and the
29 information shall be considered a public record pursuant to R.S. 44:1 et seq.,
30 and shall also be available under the Freedom of Information Act.

1 G. As used in this Section, "OPSE" shall mean the Office of Police and
 2 Secondary Employment or any other entity which may be created, or which
 3 supercedes the Office of Police and Secondary Employment, to oversee or
 4 manage paid details or secondary employment of New Orleans city police
 5 officers.

6 H. The provisions of this Section shall not apply to any police details or
 7 secondary employment by police personnel on behalf of any district created
 8 pursuant to Part II of Chapter 29 of Title 33 of the Louisiana Revised Statutes
 9 of 1950.

10 Section 2. 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.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____