

2015 Regular Session

SENATE BILL NO. 38

BY SENATOR JOHNS

MUNICIPALITIES. Provides relative to the city of Lake Charles municipal fire and police civil service system. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 33:2473(20), 2481.4(C)(1), 2481.6(C)(1), 2488, 2490(E) and (F),
3 2491(D) and (H), 2491.3(B), 2494(C), and 2498, relative to the city of Lake Charles;
4 to provide relative to the municipal fire and police civil service system; to provide
5 for definitions; to provide relative to the certification and appointment of eligible
6 persons in the police department; to provide for an effective date; 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. 33:2473(20), 2481.4(C)(1), 2481.6(C)(1), 2488, 2490(E) and (F),
11 2491(D) and (H), 2491.3(B), 2494(C), and 2498 are hereby amended and reenacted to read
12 as follows:

13 §2473. Definitions

14 The following words and phrases when used in this Part shall have
15 the following meaning, unless the context clearly requires otherwise:

16 * * *

17 20. "Seniority" means the following:

1 **(a) "Departmental seniority" means** the total employment computed for
2 an employee beginning with the last date on which he was regularly and permanently
3 appointed and has worked continuously to and including the date of computation.
4 Time during which an employee has served in the armed forces of the United States
5 subsequent to May 1, 1940, not to exceed four years, shall be construed to mean
6 continuous service and shall be included in the computation of his **departmental**
7 seniority. Total **departmental** seniority ~~in the departmental service~~, including
8 positions of any and all classes, or seniority in any one or more given classes, may
9 be computed for an employee, but in either case employment shall be continuous and
10 unbroken by a resignation or discharge of the respective employee. An employee
11 who is finally discharged or resigns from his position shall forfeit all accumulated
12 **departmental** seniority. An employee who is suspended and returns to his position
13 immediately following the expiration of his suspension shall not forfeit his
14 **departmental** seniority accumulated to the date of his suspension, but he shall not
15 be given credit for the lost time at any future computation.

16 **(b) "Promotional seniority" means the total cumulative employment in**
17 **a class of positions of the next lower class from which a promotion is to be**
18 **made. Employment counted toward seniority in the next lower class shall**
19 **include the aggregate of all temporary appointments, the working test period,**
20 **and employment as a regular and permanent employee in the class, less the**
21 **aggregate of suspensions without pay while serving in a position of the class.**
22 **The appointing authority shall maintain accurate records of appointments and**
23 **suspensions, and shall report such appointments and suspensions to the board**
24 **in strict compliance with R.S. 33:2503.**

* * *

§2481.4. Deputy chief of police; competitive appointment

* * *

28 C.(1) Any person who is appointed from a position in the classified police
29 service to serve as deputy chief of police shall not forfeit his **departmental or**

1 **promotional** seniority accumulated to the date of his appointment, and he shall
2 continue to accumulate **departmental or promotional** seniority in accordance with
3 the provisions of this Part during the time he holds the position of deputy chief of
4 police. The deputy chief of police shall serve indefinitely in the classified
5 competitive position and shall be evaluated every three years by the chief of police.
6 After each evaluation by the chief of police, the chief may reconfirm the deputy chief
7 for another three year period, or may, at his discretion, demote the deputy chief to
8 his former class of positions.

9 * * *

10 §2481.6. Chief of administration of fire department; competitive appointment

11 * * *

12 C.(1) Any person who is appointed from a position in the classified fire
13 service to serve as chief of administration of fire department shall not forfeit his
14 **departmental** seniority accumulated to the date of his appointment, and he shall
15 continue to accumulate **departmental** seniority in accordance with the provisions
16 of this Part during the time he holds the position of chief of administration of fire
17 department.

18 * * *

19 §2488. Demotion

20 **A.** Demotions of regular employees shall be made by the appointing authority
21 when it becomes necessary to reduce the number of employees in the classified
22 service or in any class therein. Demotions from any class, except for disciplinary
23 action or because of the abolition of an entire class in the classified service, shall be
24 made by demoting employees from lowest to highest in point of total **departmental**
25 seniority earned in positions of the class plus that earned in any higher classes in the
26 classified service. The names of regular employees demoted for any reason, except
27 for disciplinary action, shall be recorded upon the reinstatement list for the class
28 from which they are demoted in the order in which the demotions are made.

29 **B. Notwithstanding Subsection A of this Section, in the Lake Charles**

1 Police Department, demotions of regular employees shall be made by the
2 appointing authority when it becomes necessary to reduce the number of
3 employees in the classified service or in any class therein. Demotions from any
4 class, except for disciplinary action or because of the abolition of an entire class
5 in the classified service, shall be made by demoting employees from lowest to
6 highest in point of total promotional seniority earned in positions of the class
7 plus that earned in any higher classes in the classified service. The names of
8 regular employees demoted for any reason, except for disciplinary action, shall
9 be recorded upon the reinstatement list for the class from which they are
10 demoted in the order in which the demotions are made.

* * *

12 §2490. Reinstatement and reemployment

* * *

14 E. Any regular employee who resigns or retires from a position in the
15 classified service may, with the prior approval of the board, be reemployed in a
16 position of the class in which he was employed immediately preceding his
17 resignation or retirement or in a position in any lower class. Any such employee may
18 be reemployed at any time after his resignation or retirement, but he shall be
19 qualified for the position to which he is reemployed. In addition, the employee shall
20 be reemployed with the **departmental and promotional** seniority accumulated
21 through the date of reinstatement; however, a regular employee shall be reemployed
22 as provided in this Subsection only if his resignation or retirement occurred as a
23 result of the employee being unable to perform the essential functions of his job upon
24 sustaining any injury that is compensable pursuant to the provisions of Chapter 10
25 of Title 23 of the Louisiana Revised Statutes of 1950.

26 F. Any regular employee who retires from a position in the classified fire
27 service as a result of an injury or a medical condition which prevents him from
28 performing the essential functions of his job, may, with the prior approval of the
29 board, be reemployed in a position of the class in which he was employed

1 immediately preceding his retirement or in a position in any lower class. Any such
 2 employee may be reemployed at any time after his retirement, but he shall be
 3 qualified for the position to which he is reemployed and be able to perform the
 4 essential functions of the position. In addition, the employee shall be reemployed
 5 with the **departmental and promotional** seniority accumulated through the date of
 6 retirement. This Subsection shall not be applicable to employees whose injury or
 7 medical condition resulted from their own negligent or intentional act.

8 * * *

9 §2491. Establishment and maintenance of employment lists

10 The board shall establish and maintain employment lists containing names
 11 of persons eligible for appointment to the various classes of positions in the
 12 classified service, as follows:

13 * * *

14 **D.(1) Except as provided in Paragraph (2) of this Subsection, names**
 15 ~~Names~~ of persons attaining a passing score on a promotion test shall be placed upon
 16 the promotion employment list for the class for which they were tested, from highest
 17 to lowest, according to their total **departmental** seniority ~~in the departmental~~
 18 ~~service~~. The names of persons attaining a passing score on a competitive test shall
 19 be placed upon the competitive employment list for the class for which they were
 20 tested, from highest to lowest, according to their final test scores.

21 **(2) Names of persons attaining a passing score on the promotional test**
 22 **in the Lake Charles Police Department shall be placed upon the promotion**
 23 **employment list for the class for which they were tested, from highest to lowest,**
 24 **according to their total promotional seniority in the next lower class.**

25 * * *

26 **H.(1) Except as provided in Paragraph (2) of this Subsection, when** ~~When~~
 27 new names are to be placed upon a promotion list for a given class, the remaining
 28 names thereon shall be rearranged with the new names so that all names appearing
 29 upon the list for the class shall rank, from highest to lowest, according to total

1 departmental seniority ~~in the departmental service.~~

2 (2) When new names are to be placed upon a promotion list for a given
3 class in the Lake Charles Police Department, the remaining names thereon shall
4 be rearranged with the new names so that all names appearing upon the list for
5 the class shall rank, from highest to lowest, according to total promotional
6 seniority in the next lower class from which the promotion list is established.

7 (3) When new names are to be placed upon a competitive list for a given
8 class, the remaining names thereon shall be rearranged with the new names so that
9 all names appearing upon the list for the class shall rank, from highest to lowest,
10 according to their final test scores.

11 * * *

12 §2491.3. Promotional employment lists; limitations

13 * * *

14 B. Notwithstanding the provisions of R.S. 33:2491 and Article XIV, Section
15 15.1, Paragraph 21 of the Louisiana Constitution of 1921 made statutory by Article
16 X, Section 18 of the Louisiana Constitution of 1974, departmental service in any
17 classified police position with the primary duty or responsibility of police
18 headquarters desk service, jailer, police matron, operations and maintenance of radio,
19 police alarm or signal system, automotive or police apparatus repairs, secretary to
20 the chief, or department records clerk shall not be counted by the municipal fire and
21 police civil service board of the city in determining the total departmental or
22 promotional seniority in the departmental service of a person for purposes of
23 ranking the name of that person on a promotional employment list for a classified
24 police position with the primary duty or responsibility of law enforcement, a position
25 as a chief or assistant chief, or a position as an intradepartmental division, bureau,
26 squad, platoon, or company officer of the police department.

27 * * *

28 §2494. Certification and appointment

29 * * *

1 C.(1) In the event a vacancy cannot be filled by reinstatement, or by
2 reemployment as above provided, the board shall next certify the names of the
3 persons upon the promotional list, in the order in which they appear thereon, for the
4 class in which the vacancy is to be filled. The appointing authority shall select and
5 appoint to the first vacancy to be filled the one person certified to him who has the
6 greatest seniority in the departmental service. Any remaining positions to be filled
7 in the same class shall be filled by appointing to each such successive vacancy the
8 one of the remaining persons certified therefor who has the next highest seniority in
9 the departmental service. If any one or more persons so certified should refuse the
10 appointment, the appointing authority shall then select and appoint one of the
11 persons certified by the board with the next highest seniority in the departmental
12 service. This procedure shall be followed until the position has been filled by
13 appointment of the one person who has the greatest seniority in the departmental
14 service, and who is willing to accept the appointment, or until each person whose
15 name appears upon the list, has in this order been certified and offered the
16 appointment for the vacancy.

17 (2) Notwithstanding any other provision of law to the contrary, the
18 municipal fire and police civil service system for the city of Lake Charles shall
19 fill a vacant position in the police department in the following manner:

20 (a) In the event a vacancy cannot be filled by reinstatement, or by
21 reemployment as provided in Subsections A and B of this Section, the board
22 shall next certify the names of the persons upon the promotional list, in the
23 order in which they appear thereon, for the class in which the vacancy is to be
24 filled.

25 (b) The appointing authority shall select and appoint to the first vacancy
26 to be filled the one person certified to him who has the greatest promotional
27 seniority in the next lower rank. Any remaining positions to be filled in the
28 same class shall be filled by appointing to each such successive vacancy the one
29 of the remaining persons certified therefor who has the next highest

1 promotional seniority in the next lower class.

2 (c) If any one or more persons so certified should refuse the appointment,
 3 the appointing authority shall then select and appoint one of the persons
 4 certified by the board with the next highest promotional seniority in the next
 5 lower class. This procedure shall be followed until the position has been filled
 6 by appointment of the one person who has the greatest promotional seniority
 7 in the next lower class, and who is willing to accept the appointment, or until
 8 each person whose name appears upon the list, has in this order been certified
 9 and offered an appointment to the vacancy.

10 * * *

11 §2498. Abolition of positions in the classified service

12 A. Whenever the appointing authority abolishes a position in the classified
 13 service and there is no position vacant in the respective class to which the regular
 14 employee of the abolished position may be transferred, the employee shall be
 15 transferred to any position of the same class which may be held by a provisional
 16 employee. If there is no such position he shall be transferred to another position in
 17 the respective class, and the holder of that position shall thereupon be demoted in the
 18 order provided by R.S. 33:2488.

19 B. Whenever an entire class is abolished in the classified service, the regular
 20 employees of the class shall be demoted to lower classes and priority to positions
 21 shall be governed by total seniority earned in the departmental service in the order
 22 of highest to lowest.

23 C. Notwithstanding the provisions of Subsection B of this Section, in the
 24 Lake Charles Police Department, whenever an entire class is abolished in the
 25 classified service, the regular employees of the class shall be demoted to lower
 26 classes and priority to positions shall be governed by total promotional seniority
 27 earned in the class in the order of highest to lowest.

28 Section 2. This Act shall become effective upon signature by the governor or, if not
 29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 3 effective on the day following such approval.

The original instrument was prepared by Michael Bell. The following digest, which does not constitute a part of the legislative instrument, was prepared by Ann S. Brown.

DIGEST

SB 38 Reengrossed

2015 Regular Session

Johns

Present law, relative to municipal fire and police civil service for municipalities with a population between 13,000 and 250,000, defines "seniority" as the total employment computed for an employee beginning with the last date on which he was regularly and permanently appointed to a particular department and has worked continuously to and including the date of computation.

Proposed law provides that "departmental seniority" is defined as the term "seniority" is defined in present law and adds "promotional seniority" as a defined term to mean the total cumulative employment in a class of positions of the next lower class from which a promotion is to be made. Further provides that employment counted toward seniority in the next lower class shall include the aggregate of all temporary appointments, the working test period, and employment as a regular and permanent employee in the class, less the aggregate of suspensions without pay while serving in a position of the class.

Present law provides for the accumulation of seniority for the deputy chief of police and the chief of administration of fire department.

Proposed law retains present law and further specified which type of seniority (departmental or promotional) is affected.

Present law provides for the accumulation of seniority regarding certain employment conditions, such as demotion, reinstatement or reemployment.

Proposed law retains present law and further specified which type of seniority (departmental or promotional) is affected.

Proposed law allows departmental or promotional seniority to serve as a base in ranking of names to create a promotional employment list.

Present law provides that promotions to vacant positions shall be filled by qualified applicants in order of seniority in total departmental service.

Proposed law retains present law, but makes an exception for the Lake Charles Police Department. Provides that when a vacant position in the Lake Charles Police Department is filled by a promotion, it shall be by qualified applicants in the order of promotional seniority in the next lower rank.

Proposed law provides that whenever an entire class is abolished in the classified service of the Lake Charles Police Department, the regular employees of the class shall be demoted to lower classes and priority to positions shall be governed by total promotional seniority earned in the class in the order of highest to lowest.

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

(Amends R.S. 33:2473(20), 2481.4(C)(1), 2481.6(C)(1), 2488, 2490(E) and (F), 2491(D) and (H), 2491.3(B), 2494(C), and 2498)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Local and Municipal Affairs to the original bill

1. Adds definition of "promotional seniority".
2. Adds authority for the municipal civil service board for the Lake Charles Police Department to maintain and generate employment lists based on promotional seniority.

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Conforms provisions of present law to the proposed law changes providing for the application of promotional seniority for the Lake Charles Police Department.