

Regular Session, 2014

HOUSE BILL NO. 246

BY REPRESENTATIVE HARRISON

ELDERLY: Provides relative to the Department of Elderly Affairs, including provisions for officers and employees, rulemaking, and funding

1 AN ACT

2 To amend and reenact R.S. 36:5, 153, 154(A)(3), 155, and 156(A) and R.S. 46:931, 932(8),
3 933(G), and 934(A) and (B) and to enact R.S. 36:151(D), relative to the Department
4 of Elderly Affairs; to provide relative to officers and employees, rulemaking, and
5 funding for the department; to provide that all officers and employees of the
6 department shall be in the classified state service; to provide for rulemaking
7 authority for the department; to provide for appropriation and allocation to the
8 department of funds appropriated or allocated for department functions; to provide
9 for implementation; to provide for effectiveness; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 36:5, 153, 154(A)(3), 155, and 156(A) are hereby amended and
12 reenacted and R.S. 36:151(D) is hereby enacted to read as follows:

13 §5. Departmental officers; unclassified service

14 A. The secretary, deputy secretary, undersecretary, and assistant secretaries
15 of departments of the executive branch of state government shall be in the
16 unclassified service of the state.

17 B. Notwithstanding the provisions of Subsection A of this Section or of any
18 other law to the contrary, the secretary, deputy secretary, undersecretary, and any
19 assistant secretary and all officers and employees of the Department of Elderly
20 Affairs shall be in the classified service of the state.

21 * * *

1 Section 2. R.S. 46:931, 932(8), 933(G), and 934(A) and (B) are hereby amended and
2 reenacted to read as follows:

3 §931. Creation; personnel

4 A. The Department of Elderly Affairs is hereby created. The department
5 shall exercise the powers and duties set forth in this Chapter or otherwise provided
6 by law. The department shall be administered by a secretary, who shall be in the
7 classified state civil service. The secretary shall be appointed by the governor;
8 ~~subject to Senate confirmation, from recommendations for appointment by the~~
9 ~~Louisiana Executive Board on Aging. The secretary shall serve at the pleasure of the~~
10 ~~governor~~ in accordance with civil service rules.

11 B. The secretary shall employ necessary staff to carry out the duties and
12 functions of the department as otherwise provided in this Chapter; or as otherwise
13 provided by law, including without limitation Title 36 of the Louisiana Revised
14 Statutes of 1950.

15 C. All officers and employees of the Department of Elderly Affairs shall be
16 in the classified state civil service as more specifically provided in Chapter 4 of Title
17 36 of the Louisiana Revised Statutes of 1950.

18 §932. Powers and duties

19 The department shall have the following powers and duties:

20 * * *

21 (8) ~~To~~ Through the secretary, to adopt and promulgate rules and regulations
22 that are deemed necessary to implement the provisions of this Chapter in accordance
23 with the provisions of the Administrative Procedure Act.

24 * * *

25 §933. Louisiana Executive Board on Aging established; membership; term of office;
26 compensation of members

27 * * *

28 G. The board may ~~recommend~~ make recommendations to the governor ~~that~~
29 ~~the secretary be replaced~~ for disciplinary action against the secretary in accordance

1 contrary, any appropriation or allocation of funds for any purpose, function, or program that
2 is assigned to the Department of Elderly Affairs by virtue of statutory enactment in the
3 Louisiana Revised Statutes of 1950 shall be deemed to have been made to the Department
4 of Elderly Affairs regardless of the entity to which such appropriation or allocation is made,
5 and the state treasurer shall redirect funds appropriated or allocated to any other department,
6 agency, office, or entity for such purposes, functions, or programs to the Department of
7 Elderly Affairs. The provisions of this Section shall supersede any appropriation or
8 allocation to any other department, agency, office, or entity for such purposes, functions, or
9 programs assigned to the Department of Elderly Affairs by virtue of statutory enactment.

10 Section 3. This Act shall take effect and become operative if and when the proposed
11 amendment of Article IV of the Constitution of Louisiana contained in the Act which
12 originated as House Bill No. 343 of this 2014 Regular Session of the Legislature is adopted
13 at a statewide election and becomes effective.

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)]

Harrison

HB No. 246

Abstract: Relative to the Department of Elderly Affairs, provides relative to officers and employees, rulemaking, and funding for the department.

Present constitution (Const. Art. X) provides that the state civil service is divided into the unclassified and the classified service and that persons not included in the unclassified service are in the classified service. Provides, in part, that the unclassified service includes the heads of each principal executive department appointed by the governor and one person holding a confidential position and one principal assistant or deputy to such officers. Also provides that additional positions may be added to the unclassified service and those positions may be revoked by rules adopted by a state civil service commission. The commission has added most officers of the 20 executive branch departments to the unclassified service.

Proposed constitutional amendment (HB No. 343) creates the Dept. of Elderly Affairs as an executive branch department and provides for its functions and funds. Provides, in part, that all officers and employees of the department shall be in the classified state civil service, notwithstanding any provision of Const. Art. X to the contrary, and that their appointments and compensation shall be in accordance with state civil service rules.

Present law (not effective; to become effective when an executive branch department is abolished or an additional department is authorized by constitutional amendment) (R.S. 36:153, 155, and 156) provides that the secretary of the Dept. of Elderly Affairs shall be appointed by the governor with Senate consent from recommendations by the La. Executive

Board on Aging to serve at the pleasure of the governor at a salary fixed by the governor not to exceed the amount approved by the legislature in session. Provides for an optional deputy secretary and for an undersecretary over the office of management and finance of the department. Provides for appointment and setting of salary of the deputy secretary (if appointed) by the secretary and of the undersecretary by the governor, with salaries limited to the amount approved by the legislature in session.

Proposed law provides for appointment of the secretary by the governor and for appointment of the deputy secretary (if one is appointed) and the undersecretary by the secretary.

Present law (R.S. 36:5) provides that the secretary, deputy secretary, undersecretary, and assistant secretaries of departments of the executive branch of state government shall be in the unclassified service of the state.

Proposed law (R.S. 36:5 and 151(D) and R.S. 46:931) provides that, notwithstanding present law the secretary, deputy secretary, undersecretary, and any assistant secretary and all officers and employees of the Dept. of Elderly Affairs shall be in the classified service of the state. Provides that the appointment and salary of the secretary, the deputy secretary (if appointed) and the undersecretary shall be in accordance with state civil service rules. Changes provision (R.S. 46:933) authorizing the La. Executive Board on Aging to make recommendations to the governor for replacement of the secretary and provides instead that the board may make recommendations to the governor for disciplinary action against the secretary in accordance with civil service rules.

Proposed law (R.S. 36:154(A)(3), R.S. 46:932(8) and 934) provides that provisions of law authorizing the Dept. of Elderly Affairs to make rules or establish standards or rates shall be construed to mean the secretary. Removes provisions for rulemaking by the La. Executive Board on Aging and provides for the board to make recommendations to the secretary.

Proposed law provides that on and after the effective date of the Act, the Dept. of Elderly Affairs shall be the successor of the Office of Elderly Affairs as provided in Acts 2013, No. 384 and the present Act. Requires the commissioner of administration to take all actions necessary to provide for the transfer of appropriations and allocations made to the Office of Elderly Affairs to the Dept. of Elderly Affairs. Provides that, notwithstanding any law to the contrary, any appropriation or allocation of funds for any purpose, function, or program assigned to the Dept. of Elderly Affairs by statutory enactment in the R.S. shall be deemed to have been made to the Dept. of Elderly Affairs regardless of the entity to which such appropriation or allocation is made, and requires the state treasurer to redirect funds appropriated or allocated to any other department, agency, office, or entity for such purposes, functions, or programs to the Dept. of Elderly Affairs. Provides that such proposed law supersedes any appropriation or allocation made to any other department, agency, office, or entity for such purposes, functions, or programs.

Effective if and when the proposed amendment of Article IV of the Constitution of La. contained in the Act which originated as House Bill No. 343 of this 2014 R.S. is adopted at a statewide election and becomes effective. (Jan. 1, 2015)

(Amends R.S. 36:5, 153, 154(A)(3), 155, and 156(A) and R.S. 46:931, 932(8), 933(G), and 934(A) and (B); Adds R.S. 36:151(D))