

Regular Session, 2011

HOUSE BILL NO. 442

BY REPRESENTATIVE HENDERSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ETHICS: Provides relative to members of the board of commissioners of certain hospital service districts

1 AN ACT

2 To amend and reenact R.S. 42:1113(A)(1)(b), 1121(A)(2), and 1123(18), relative to ethics
3 provisions governing certain hospital service district boards; to prohibit certain
4 parish governing authorities from appointing their own members to a board or
5 commission; to terminate the service of certain board members appointed by certain
6 parish governing authorities; to remove an exception from the code of ethics for
7 certain hospital service district boards; to extend the time certain former board
8 members and their families are prohibited from engaging in contractual
9 arrangements with and being employed by their former agency; and to provide for
10 related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 42:1113(A)(1)(b), 1121(A)(2), and 1123(18) are hereby amended
13 and reenacted to read as follows:

14 §1113. Prohibited contractual arrangements

15 A.(1)(a)

16 * * *

17 (b)(i) This Paragraph does not prohibit a municipal or parish governing
18 authority from appointing one of its members:

19 (†)(aa) To fill a vacancy in accordance with the Louisiana Election Code. No
20 person so appointed, except as provided in R.S. 42:1121(G), shall be eligible to or

1 shall qualify in the next election as a candidate for the office to which he is
2 appointed.

3 ~~(ii)(bb)~~ To a board or commission for which the governing authority is the
4 appropriate appointing authority and the appointee receives no salary or per diem for
5 service on the board or commission, or if a member of the governing authority is
6 required to be appointed to the board or commission by the home rule charter,
7 ordinance, or resolution which created or established the board or commission.

8 (ii) Notwithstanding any provision of Item (i) of this Subparagraph to the
9 contrary, no governing authority in a parish having a population between thirty-five
10 thousand seven hundred persons and thirty-eight thousand persons as of the most
11 recent federal decennial census shall appoint one of its members to a hospital service
12 district board of commissioners.

13 * * *

14 §1121. Assistance to certain persons after termination of public service

15 A.

16 * * *

17 (2)(i) No former member of a board or commission shall, for a period of two
18 years following the termination of his public service on such board or commission,
19 contract with, be employed in any capacity by, or be appointed to any position by
20 that board or commission.

21 (ii) Notwithstanding any provision of Item (i) of this Paragraph, no former
22 member of a hospital service district board of commissioners in a parish having a
23 population between thirty-five thousand seven hundred persons and thirty-eight
24 thousand persons as of the most recent federal decennial census nor any immediate
25 family member of such former board member may contract with, be employed in any
26 capacity by, or be appointed to any position by that board or commission for a period
27 of five years following the termination of the board member's public service on such
28 board.

29 * * *

1 §1123. Exceptions

2 This Part shall not preclude:

3 * * *

4 (18)(a) A licensed physician who is a member of a board of commissioners
5 for any hospital service district authorized by Chapter 10 of Title 46 of the Louisiana
6 Revised Statutes of 1950 located within a parish which has a population of one
7 hundred twenty-five thousand or less from contracting with the hospital over which
8 the board exercises jurisdiction, from subcontracting with another provider who
9 contracts with such hospital, or from owning an interest in an entity that contracts
10 with such hospital. However, such licensed physician shall recuse himself from
11 participating in any transaction before the board relating to any contracts entered into
12 by him, or by a provider with which he subcontracts, or by any entity in which he
13 owns an interest, and permitted by this Paragraph.

14 (c) Any physician serving as a member of a hospital service district board
15 or commission, if such hospital service district board or commission is required by
16 law or by local ordinance, rule, or regulation adopted by a municipal or parish
17 governing authority to have one or more physician members on its board or
18 commission, from leasing space for the provision of health care services from a
19 hospital under the jurisdiction of the board or commission for fair market value.
20 However, such licensed physician shall recuse himself from participating in any
21 transaction involving a lease agreement to which he is permitted by this
22 Subparagraph to be a party.

23 (d) Any licensed physician who is the child of a member of a board of
24 commissioners of any hospital service district authorized by Chapter 10 of Title 46
25 of the Louisiana Revised Statutes of 1950, located within a parish that has a
26 population of fifty thousand or less or for a hospital that is defined as a rural hospital
27 pursuant to the Rural Hospital Preservation Act, R.S. 40:1300.141 et seq., from
28 contracting for professional health care services with the hospital over which the
29 board exercises jurisdiction, from subcontracting with another professional health

1 care provider who contracts for professional health care services with the hospital,
2 or from owning an interest in any entity that contracts for professional health care
3 services with the hospital.

4 (e) Notwithstanding any provision of this Paragraph to the contrary, the
5 provisions of this Paragraph shall not apply to any member of a hospital service
6 district board of commissioners in a parish having a population between thirty-five
7 thousand seven hundred persons and thirty-eight thousand persons as of the most
8 recent federal decennial census.

9 * * *

10 Section 2. The service of any member of a parish governing authority appointed to
11 and serving on a hospital service district board of commissioners in a parish with a
12 population between thirty-five thousand seven hundred persons and thirty-eight thousand
13 persons as of the most recent federal decennial census shall terminate at midnight on
14 December 31, 2011.

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)]

Henderson

HB No. 442

Abstract: Removes an ethics exception for certain hospital service district board members and provides an extended time within which a former board member of certain hospital service districts, or his immediate family, may not contract with the former agency.

Present law provides a Code of Governmental Ethics for public servants, including elected officials, and public employees. Proposed law retains present law.

Present law (R.S. 42:1113(A)(1)(b)) provides an exception to the "prohibited contractual arrangements" provisions of the code to allow a municipal or parish governing authority in certain circumstances to appoint one of its own members to fill a vacancy or to a board or commission. Proposed law excludes any parish having a population between 35,700 persons and 38,000 persons from being able to appoint one of its own members to a hospital service district board of commissioners in such parish.

Proposed law further provides that the service of any member of the parish governing authority serving on a hospital service district board of commissioners in such a parish shall terminate at midnight on Dec. 31, 2011.

Present law (R.S. 42:1121) provides that for two years following termination of a public servant's service on a board or commission, that public servant is prohibited from contracting

with, being employed in any capacity by, or being appointed to any position by his former board or commission. Proposed law retains present law. Proposed law further provides that any board member, or an immediate family member thereof, of a hospital service district in a parish having a population between 35,700 persons and 38,000 persons may not contract with, be employed in any capacity by, or be appointed to any position by his former board for a period of five years.

Present law (R.S. 42:1123(18)) provides exceptions to the Code of Governmental Ethics for certain persons or classes of persons relative to hospital service districts. Proposed law provides that any exception in present law which may apply to a board member of a hospital service district in a parish having a population between 35,700 persons and 38,000 persons will no longer apply to such board member.

(Amends R.S. 42:1113(A)(1)(b), 1121(A)(2), and 1123(18))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill.

1. Adds a prohibition against governing authorities in certain parishes appointing one of their own members to serve on a hospital service district board of commissioners.
2. Provides that the service of any member of the parish governing authority appointed to and serving on a hospital service district board of commissioners in such a parish shall terminate at midnight on Dec. 31, 2011.
3. Limits the prohibition on applicability of exceptions in the Ethics Code in proposed law to those exceptions dealing with hospital service districts.