

First Extraordinary Session, 2002

SENATE BILL NO. 27

BY SENATOR HAINKEL

STATE EMPLOYEES. Constitutional amendment to authorize legislature to provide for the removal of any state employee upon conviction of a felony.

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A JOINT RESOLUTION

Proposing to enact Article X, Section 25.1 of the Constitution of Louisiana, relative to state employees, to require that the legislature provide by law for the removal of a state employee upon conviction of a felony; and to specify an election for submission of the proposition to electors and provide a ballot proposition.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state, for their approval or rejection in the manner provided by law, a proposal to add Article X, Section 25.1 of the Constitution of Louisiana, to read as follows:

§25.1. Removal by Suit; State Employees

Article X, Section 25.1 is all proposed new law.

Section 25.1. Notwithstanding any provision of this Constitution to the contrary, the legislature shall provide by general law for the removal of any state employee, whether classified or

1 unclassified, from his position of employment, upon conviction, during
2 his employment, of a felony as defined by law.

3 Section 2. Be it further resolved that this proposed amendment shall be
4 submitted to the electors of the state at the statewide election to be held on
5 November 5, 2002.

6 Section 3. Be it further resolved that on the official ballot to be used
7 at the election there shall be printed a proposition, upon which the electors of
8 the state shall be permitted to vote FOR or AGAINST, to amend the
9 Constitution of Louisiana, which proposition shall read as follows:

10 To require that the legislature provide by general law for the removal
11 of any state employee, whether classified or unclassified, from his
12 position of employment, upon conviction, during his employment, of
13 a felony as defined by law. (Adds Article X, Section 25.1)

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

Present constitution provides that a classified state employee subjected to discipline has a right of appeal to the State Civil Service Commission. (Const. Art. X, Sec. 8(A) and 12(A))

Present law provides for termination of state employees both classified or unclassified and removal of such employee from his position of employment with the state upon conviction, during his employment, of a felony as defined by state or federal law. (R.S. 42:1414)

The La. Supreme Court in *AFSCME, Council # 17 v. State ex rel. Dept. of Health and Hospitals*, 789 So. 2d 1263(La. 2001), held that present law (R.S. 42:1414) violated the separation of powers principle as applied to classified state employees.

Proposed constitutional amendment requires that the legislature provide by general law for the removal of any state employee, whether classified or unclassified, from his position of employment, upon conviction, during his employment, of a felony as defined by law.

Specifies submission of the amendment to the voters at the statewide election to be held on 11/5/02.

(Adds Const. Art. X, Sec. 25.1)