

**SB 27 BY SENATORS HAINKEL AND MALONE**

**KEYWORD AND SUMMARY**

PUBLIC EMPLOYEES. Constitutional amendment to authorize legislature to provide for the removal of any state or local employee upon commission or conviction of a felony. (2/3-CA13s1(A))

**SUMMARY OF HOUSE AMENDMENTS TO SENATE BILL**

1. Provides that the removal of the employee is for the conviction of a felony during employment instead of commission or conviction of a felony during employment.

**DIGEST OF THE SENATE BILL AS IT LEFT THE SENATE**

Present constitution requires that the legislature provide by general law for the removal by suit of any state, district, parochial, ward, or municipal official, except the governor, lieutenant governor, and judges of the courts of record, for commission or conviction, during his term of office, of a felony.

Present law provides for the removal of a public officer from office for conviction, during his term of office, of a felony. Defines "public officer" as any person holding a public office, whether state, district, parochial, ward, or municipal, whether the person is elected or appointed except judges of the courts of record.

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, district, parochial, ward, or municipal employee, whether classified or unclassified, from his position of employment for commission or conviction, during his employment, of a felony as defined by law. "Conviction" as used in this Section, means a conviction that is final and all appellate review of the original trial court proceedings is exhausted.

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)

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