

Regular Session, 2013

HOUSE BILL NO. 352

BY REPRESENTATIVES HARRISON, ADAMS, ANDERS, ARMES, ARNOLD, BARROW, BERTHELOT, BILLIOT, BROSSETT, BROWN, BURFORD, BURRELL, CARTER, CHANEY, CONNICK, COX, DANAHAY, DIXON, DOVE, EDWARDS, GAINES, GISCLAIR, GUILLORY, GUINN, HARRIS, HAVARD, HAZEL, HENSGENS, HILL, HODGES, HOFFMANN, HOLLIS, HONORE, HOWARD, HUNTER, GIROD JACKSON, KATRINA JACKSON, JAMES, JEFFERSON, JOHNSON, JONES, KLECKLEY, TERRY LANDRY, LEBAS, LEOPOLD, MACK, MONTOUCET, MORENO, NORTON, ORTEGO, PIERRE, POPE, PRICE, PUGH, PYLANT, REYNOLDS, RICHARD, RITCHIE, SCHEXNAYDER, SCHRODER, SMITH, ST. GERMAIN, STOKES, THIBAUT, THIERRY, THOMPSON, WHITNEY, ALFRED WILLIAMS, PATRICK WILLIAMS, AND WILLMOTT

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

ELDERLY: Provides relative to elderly affairs; creates the Department of Elderly Affairs, places the Louisiana Executive Board on Aging in the department, and provides for allocation of funds for programs for the elderly

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AN ACT

To amend and reenact R.S. 23:73(E)(2), R.S. 35:406(A)(1) and (D), R.S. 36:258(F), R.S. 39:33(A)(2), R.S. 46:931, 932(introductory paragraph) and (14), 933(A), (D), and (G), 934, 935(A), (B)(introductory paragraph), and (C), 936, 937, 937.1(A) and (B)(1) and (3), 937.2, 937.3, 938, and 2351(E)(introductory paragraph), to enact R.S. 36:4(A)(15) and Chapter 4 of Title 36 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 36:151 through 157, and to repeal R.S. 36:4(B)(6), relative to elderly affairs; to create the Department of Elderly Affairs and provide for its purposes and organization and for its offices and officers and for their functions, powers, duties, and responsibilities; to abolish the Office of Elderly Affairs; to provide that the department shall be the successor to the office; to transfer the Louisiana Executive Board on Aging from the office of the governor to the Department of Elderly Affairs; to provide that the office of aging and adult services in the Department of Health and Hospitals shall have no responsibility or authority

1 for any program or function assigned to the Department of Elderly Affairs; to
 2 authorize and direct the Louisiana State Law Institute to change certain references
 3 in law; to provide for implementation and effectiveness; to provide that funding for
 4 purposes, functions, and programs within the jurisdiction or authority of the Office
 5 of Elderly Affairs or its successor, the Department of Elderly Affairs, as provided by
 6 the Louisiana Revised Statutes of 1950, shall be appropriated or allocated only to,
 7 and available for use only by, the Office of Elderly Affairs and its successor, the
 8 Department of Elderly Affairs; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 23:73(E)(2) is hereby amended and reenacted to read as follows:

11 §73. Comprehensive labor market information system

12 E.

13 * * *

14 (2) The public entities whose data and assistance shall be considered
 15 necessary for the system to fulfill its purpose shall include the commission and the
 16 Departments of Economic Development, Education, Elderly Affairs, Health and
 17 Hospitals, Public Safety and Corrections, Social Services, and Veterans Affairs, and
 18 in the governor's office, the Offices of ~~Elderly Affairs~~, Lifelong Learning, Women's
 19 Services, and Workforce Development, and the State Board of Elementary and
 20 Secondary Education, and the Board of Regents and any other public entity the
 21 commission deems necessary.

22 Section 2. R.S. 35:406(A)(1) and (D) are hereby amended and reenacted to read as
 23 follows:

24 §406. Ex officio notaries public of the adult protection agency

25 A. Notwithstanding any provisions of law relative to qualifications for
 26 notaries public, except R.S. 35:391:

27 (1) The ~~director of the office of elderly affairs~~ secretary of the Department
 28 of Elderly Affairs may appoint two investigators in each region of the adult

1 protection agency, ~~office of elderly affairs, office of the governor,~~ Department of
2 Elderly Affairs, as ex officio notaries public.

3 * * *

4 D. The ~~director or~~ secretary authorized to make such appointments may
5 suspend or terminate any appointment made pursuant to this Section at any time.
6 Separation from the employ of the adult protection agency shall automatically
7 terminate the powers of such an ex officio notary public.

8 Section 3. R.S. 36:258(F) is hereby amended and reenacted and R.S. 36:4(A)(15)
9 and Chapter 4 of Title 36 of the Louisiana Revised Statutes of 1950, comprised of R.S.
10 36:151 through 157, are hereby enacted to read as follows:

11 §4. Structure of executive branch of state government

12 A. In accordance with the provisions of Article IV, Section 1 and Article
13 XIV, Section 6 of the Constitution of Louisiana, all offices, boards, commissions,
14 agencies, and instrumentalities of the executive branch of state government, whether
15 constitutional or statutory, and/or their functions, powers, duties, and responsibilities
16 shall be allocated, either in the Act by which this Title was created or by legislation
17 enacted subsequent thereto, within the departments listed in this Section, except as
18 provided in Subsections B and C of this Section, and in order to comply with this
19 constitutional mandate, the agencies of the executive branch of state government
20 hereinafter enumerated, whether heretofore created by the constitution or by statute,
21 and/or their functions, powers, duties, and responsibilities are allocated, in the
22 manner hereinafter set forth in this Title, within the following designated
23 departments:

24 * * *

25 (15) Department of Elderly Affairs

26 * * *

1 CHAPTER 4. DEPARTMENT OF ELDERLY AFFAIRS

2 §151. Department of Elderly Affairs; creation; domicile; composition; purposes and
3 functions

4 A. The Department of Elderly Affairs is created and shall be a body
5 corporate with the power to sue and be sued. The domicile of the department shall
6 be in Baton Rouge.

7 B. The Department of Elderly Affairs, through its offices and officers, shall
8 be responsible for the functions of the state that are designed to meet the needs of
9 Louisiana residents sixty years of age or older and for planning, monitoring,
10 coordination, and delivery of services to the elderly of the state, including but not
11 limited to coordination of services of all state agencies serving the elderly and
12 requiring reports from them; developing a plan for efficient coordination of functions
13 and services for the elderly and for consolidation of such functions and services
14 within the department with local administration by the parish voluntary councils on
15 aging; administration of the Older Americans Act and related programs;
16 administration of all federal funds appropriated, allocated, or otherwise made
17 available to the state for services to the elderly, except funds for programs
18 administered by other state departments or agencies as specified by the Louisiana
19 Revised Statutes of 1950; exercising functions relative to nutrition programs for the
20 elderly and handicapped citizens of Louisiana, homemaker services, home repair and
21 maintenance services, employment and training services, recreational and
22 transportation services, counseling, information and referral services, protective
23 services as provided in R.S. 15:1501 et seq., and health-related outreach, but
24 excluding the transportation program for the elderly and the handicapped
25 administered by the Department of Transportation and Development under Section
26 16(b)(2) of the Federal Urban Mass Transportation Act of 1964 as amended and
27 other such programs and services assigned to other departments of state government
28 as provided in Title 36 of the Louisiana Revised Statutes of 1950; collection of facts
29 and statistics and making special studies of conditions pertaining to the employment,

1 health, financial status, recreation, social adjustment, or other conditions affecting
2 the welfare of the aged; keeping abreast of the latest developments in aging
3 throughout the nation and interpreting such findings to the public; providing for a
4 mutual exchange of ideas and information on national, state, and local levels; and
5 making recommendations to the governor and to the legislature for needed
6 improvements and additional resources to promote the welfare of the aging in the
7 state.

8 C. The Department of Elderly Affairs shall be composed of the executive
9 office of the secretary, the office of management and finance, and such other offices
10 as shall be created by law. Whenever the secretary determines that the
11 administration of the functions of the department may be more efficiently performed
12 by eliminating, merging, or consolidating existing offices or establishing new
13 offices, he shall present a plan therefor to the legislature for its approval by statute.

14 §152. Officers of the department; compensation for one office only

15 A. The officers of the department shall be the secretary, the undersecretary,
16 and the deputy secretary if a deputy secretary is appointed, each of whom shall be
17 selected and shall perform functions as provided in this Title.

18 B. No person serving as a secretary, deputy secretary, or undersecretary shall
19 receive any additional salary from the state other than that salary which he receives
20 by virtue of serving in any one of such offices. Any statewide elected official
21 appointed to serve as a secretary, deputy secretary, or undersecretary shall not
22 receive any additional salary from the state other than that salary which he receives
23 as a statewide elected official.

24 C. Notwithstanding any provision of this Section to the contrary, subject to
25 approval of the governor, any person, including any statewide elected official,
26 serving or appointed to serve as a secretary, undersecretary, or deputy secretary may
27 receive additional compensation for part-time services rendered as an instructor in
28 postsecondary educational institutions or as a member of the National Guard.

1 §153. Secretary of elderly affairs

2 There shall be a secretary of the Department of Elderly Affairs, who shall be
3 appointed by the governor with consent of the Senate from recommendations for
4 appointment by the Louisiana Executive Board on Aging, and who shall serve at the
5 pleasure of the governor at a salary fixed by the governor, which salary shall not
6 exceed the amount approved for such position by the legislature while in session.

7 The secretary shall serve as the executive head and chief administrative officer of the
8 Department of Elderly Affairs and shall have the responsibility for the policies of the
9 department except as otherwise provided by this Title, and for the administration,
10 control, and operation of the functions, programs, and affairs of the department;
11 provided that the secretary shall perform his functions under the general control and
12 supervision of the governor.

13 §154. Powers and duties of secretary of elderly affairs

14 A. In addition to the functions, powers, and duties otherwise vested in the
15 secretary by law, he shall:

16 (1) Represent the public interest in the administration of this Chapter and
17 shall be responsible to the governor, the legislature, and the public therefor.

18 (2) Determine the policies of the department, except as otherwise provided
19 by this Title.

20 (3) In accordance with the Administrative Procedure Act, make, alter,
21 amend, and promulgate rules and regulations necessary for the administration of the
22 functions of the department, except as otherwise provided by this Title. The rules
23 and policies of the Office of Elderly Affairs in effect on the effective date of this
24 Paragraph shall remain in effect as rules of the Department of Elderly Affairs and
25 such rules shall remain in effect subject to their own provisions until changed as
26 provided in this Paragraph.

27 (4) Organize, plan, supervise, direct, administer, execute, and be responsible
28 for the functions and programs vested in the department, in the manner and to the
29 extent provided by this Title.

1 (5) Advise the governor on problems concerning the administration of the
2 department.

3 (6) Act as the sole agent of the state or, in necessary cases, designate one of
4 the officers within the department to cooperate with the federal government and with
5 other state and local agencies in matters of mutual concern and in the administration
6 of federal funds granted to the state or directly to the department or an office thereof
7 to aid in the furtherance of any function of the department and its offices. For this
8 purpose he may take such actions, in accordance with applicable state law, necessary
9 to meet such federal standards as are established for the administration and use of
10 such federal funds, except as otherwise specifically provided in this Title or by the
11 constitution and laws of this state.

12 (7) Make and publish an annual report to the governor and the legislature
13 concerning the operations of the department and submit with each report such
14 recommendations as he deems necessary for the more effective internal structure and
15 administration of the department and make other reports and recommendations on
16 his own initiative or upon request of the governor, the legislature, or any committee
17 or member thereof.

18 (8) Provide for the ongoing merger and consolidation of the agencies and
19 functions transferred to his department and submit a report thereon to the governor
20 and the legislature, which report shall accompany the budget request which he
21 submits under provisions of R.S. 39:33. Such report shall include a statement of the
22 goals of the department and of the programs thereof and shall summarize the
23 accomplishments of the department in meeting such goals and implementing such
24 programs. The report shall also contain a specific statement of the reorganization
25 and consolidation plan for the department for the next year and shall include a report
26 on the implementation of such reorganization and consolidation plan for the previous
27 year. The report concerning reorganization shall specifically detail the extent to
28 which the department has achieved goals stated the previous year with respect to
29 merger and consolidation of functions, abolition of agencies, elimination of job

1 positions, and efficiency and economy in delivery of services. The report shall
2 contain any recommendations with respect to reorganization which may require
3 legislative action under the provisions of this Title. A copy of the report and
4 recommended legislation shall also be submitted by the secretary to the presiding
5 officer of both houses of the legislature. The presiding officer shall refer the report
6 to the appropriate committee having jurisdiction of the subject matter as provided in
7 the rules of the respective house.

8 B. The secretary may:

9 (1)(a) Except as otherwise specifically provided in R.S. 36:801 and 803:

10 (i) Employ, appoint, remove, assign, and promote such personnel as is
11 necessary for the efficient administration of the executive office of the secretary and
12 the performance of its powers, duties, functions, and responsibilities and such other
13 personnel, who are not assigned to an office, as may be necessary for the efficient
14 administration of the department, and for the performance of the responsibilities,
15 powers, duties, and functions of agencies transferred to it.

16 (ii) Employ, assign, and remove all personnel employed for the department
17 on a contractual basis.

18 (iii) Transfer the personnel of the department as necessary for the efficient
19 administration of the department and its programs.

20 (b) All of the provisions of Subparagraph (a) of this Paragraph shall be
21 accomplished in accordance with applicable civil service laws, rules, and regulations,
22 and with policies and rules of the Department of Elderly Affairs, and all shall be
23 subject to budgetary control and applicable laws.

24 (2) Appoint, subject to gubernatorial approval, advisory councils, boards,
25 and commissions necessary in the administration of the department, except as
26 otherwise provided by law or by executive order.

27 (3) Accept and use, in accordance with law, gifts, grants, bequests, and
28 endowments for purposes consistent with the responsibilities and functions of the

1 department, and take such actions as are necessary to comply with conditions
2 required for such acceptance.

3 (4) Formulate and promulgate rules of administration for the department
4 relating to employment and management.

5 (5) Do such other things not inconsistent with law as are necessary to
6 perform properly the functions vested in him.

7 §155. Deputy secretary

8 There may be a deputy secretary of the department, who shall be appointed
9 by the secretary with consent of the Senate and who shall serve at the pleasure of the
10 secretary at a salary fixed by the secretary, which salary shall not exceed the amount
11 approved for such position by the legislature while in session. The duties and
12 functions of the deputy secretary shall be determined and assigned by the secretary.
13 If appointed, he shall serve as acting secretary in the absence of the secretary.

14 §156. Undersecretary; functions; office of management and finance

15 A. There shall be an undersecretary of the Department of Elderly Affairs,
16 who shall be appointed by the governor with consent of the Senate and who shall
17 serve at the pleasure of the governor at a salary fixed by the governor, which salary
18 shall not exceed the amount approved for such position by the legislature while in
19 session. The undersecretary shall be directly responsible to and shall perform his
20 functions under the supervision and control of the secretary.

21 B. The undersecretary shall direct and be responsible for the functions of the
22 office of management and finance within the Department of Elderly Affairs. In such
23 capacity, he shall be responsible for accounting and budget control, procurement and
24 contract management, data processing, management and program analysis, personnel
25 management, and grants management for the department and all of its offices,
26 including all agencies transferred to the Department of Elderly Affairs, except as
27 otherwise specifically provided in this Title. He shall employ, appoint, remove,
28 assign, and promote such personnel as is necessary for the efficient administration
29 of the office of management and finance and the performance of its powers, duties,

1 functions, and responsibilities, in accordance with applicable civil service laws,
2 rules, and regulations, and with policies and rules of the department, all subject to
3 budgetary control and applicable laws. The undersecretary shall exercise all powers
4 and authority granted to him in this Title subject to the overall direction and control
5 of the secretary.

6 C. The duties and functions of the office of management and finance and of
7 the undersecretary shall be as provided in this Section, and these duties and functions
8 shall not be subject to change by the secretary, except that the undersecretary shall
9 perform such additional duties and functions as are assigned by the secretary.

10 §157. Transfer of agencies or their powers to Department of Elderly Affairs

11 A. The Louisiana Executive Board on Aging (R.S. 46:931 et seq.) is placed
12 within the Department of Elderly Affairs and shall exercise and perform its powers,
13 duties, functions, and responsibilities as provided in R.S. 36:802.

14 B. The Office of Elderly Affairs (formerly R.S. 46:931 et seq.) is hereby
15 abolished and its powers, duties, functions, and responsibilities are transferred to the
16 Department of Elderly Affairs and shall be exercised and performed as provided in
17 Chapter 7 of Title 46 of the Louisiana Revised Statutes of 1950, as provided in this
18 Chapter, and as provided in Part IV of Chapter 22 of this Title except as otherwise
19 provided in Chapter 7 of Title 46 of the Louisiana Revised Statutes of 1950.

20 * * *

21 §258. Offices; purposes and functions

22 * * *

23 F. The office of aging and adult services shall be responsible for the
24 programs and functions of the Department of Health and Hospitals related to the
25 long-term care of the elderly and the protection and long-term care of persons with
26 adult onset disabilities. It shall administer the residential state-operated nursing
27 homes, the Villa Feliciana Medical Complex, the protection services program of
28 adults from ages eighteen to fifty-nine, the department's long-term support and
29 services programs, the State Personal Assistance Services program, the Community

1 and Family Support Program, the Traumatic Head and Spinal Cord Injury Trust
2 Fund, as well as other related programs within the department. The office shall have
3 no responsibility or authority for any programs or functions assigned by the
4 Louisiana Revised Statutes of 1950 to the Department of Elderly Affairs.

5 * * *

6 Section 4. R.S. 39:33(A)(2) is hereby amended and reenacted to read as follows:

7 §33. Agency budget request; time of submission; standing committees

8 A.

9 * * *

10 (2) Except as limited, restricted, or otherwise prohibited by the Constitution
11 of Louisiana, simultaneously with budget units submitting their budget requests to
12 the governor, the Department of Economic Development, the Department of Elderly
13 Affairs, the Department of Public Safety and Corrections, the Department of
14 Children and Family Services, the Louisiana Workforce Commission, the
15 Department of Health and Hospitals, the Department of Education, the State Board
16 of Elementary and Secondary Education, the Board of Regents, and in the office of
17 the governor, the Department of Veterans Affairs and the Offices of Lifelong
18 Learning, Workforce Development, ~~Elderly Affairs~~, and Women's Services shall
19 submit a copy of their workforce budget requests to the Louisiana Workforce
20 Investment Council, as created in R.S. 23:2042, for the commission's review,
21 modification, and approval of funding to be incorporated into the executive budget.

22 * * *

23 Section 5. R.S. 46:931, 932(introductory paragraph) and (14), 933(A), (D), and (G),
24 934, 935(A), (B)(introductory paragraph), and (C), 936, 937, 937.1(A) and (B)(1) and (3),
25 937.2, 937.3, 938, and 2351(E)(introductory paragraph) are hereby amended and reenacted
26 to read as follows:

1 CHAPTER 7. ~~OFFICE~~ DEPARTMENT OF ELDERLY AFFAIRS

2 §931. Creation; personnel

3 ~~An agency of the state to be known as the office of elderly affairs~~ The
4 ~~Department of Elderly Affairs~~ is hereby created and established in the office of the
5 ~~governor.~~ Said office ~~The department~~ shall exercise the powers and duties
6 ~~hereinafter~~ set forth in this Chapter or otherwise provided by law. The ~~office~~
7 ~~department~~ shall be administered by ~~an executive director~~ a secretary, who shall be
8 ~~recommended~~ appointed by the governor, subject to Senate confirmation, from
9 recommendations for appointment by the Louisiana Executive Board on Aging, ~~to~~
10 ~~the governor to~~ The secretary shall serve at his the pleasure of the governor, subject
11 ~~to confirmation by the Senate.~~ The ~~executive director~~ secretary shall employ
12 necessary staff to carry out the duties and functions of the ~~office~~ department as
13 otherwise provided in this Chapter, or as otherwise provided by law.

14 §932. Powers and duties

15 The ~~office~~ department shall have the following powers and duties:

16 * * *

17 (14) To approve recommendations from any parish voluntary council on
18 aging prior to the creation of any new state-funded senior center in the state.
19 Recommendations from a parish voluntary council on aging and approval by the
20 ~~Office~~ Department of Elderly Affairs shall be based on need for a new facility and
21 whether the proposed facility will meet the criteria for a senior center as defined in
22 the policies and regulations established by the ~~Office~~ Department of Elderly Affairs.

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

25 A. ~~There is hereby established the~~ The Louisiana Executive Board on Aging
26 ~~within the office of the governor~~ is established within the Department of Elderly
27 Affairs.

28 * * *

1 D. A person is not eligible for appointment if the person or the person's
2 spouse is either:

3 (1) Employed by a business entity or other organization regulated by or
4 receiving funds from the ~~governor's office of elderly affairs~~ Department of Elderly
5 Affairs.

6 (2) Owns, controls, or has, directly or indirectly, more than a ten percent
7 interest in a business entity or other organization regulated by or receiving funds
8 from the ~~governor's office of elderly affairs~~ Department of Elderly Affairs.

9 * * *

10 G. The board may recommend ~~discharge of the executive director~~ to the
11 governor that the secretary be replaced. The board shall adopt rules for the
12 transaction of its business and shall keep a record of its resolutions, transactions,
13 findings, and determinations. A majority of members shall constitute a quorum. The
14 ~~office~~ department shall provide office and meeting space and staff support for the
15 board.

16 §934. Louisiana Executive Board On Aging; powers, duties, and functions

17 A. The board shall develop and implement policies and procedures
18 pertaining to the ~~office of elderly affairs~~ Department of Elderly Affairs and its
19 functions, shall approve matters of policy and all rules and regulations promulgated
20 by the board or the ~~office~~ department which pertain to elderly affairs and voluntary
21 parish councils on aging, shall review and make recommendations to the ~~director~~
22 secretary on matters of general importance and relevance to the planning,
23 monitoring, coordination, and delivery of services to the elderly of the state, and
24 shall prepare and submit an annual report to the legislature and to the governor sixty
25 days prior to the legislative session.

26 B. The board shall adopt rules governing the functions of the ~~office~~
27 department, including rules that prescribe the policies and procedures followed by
28 the board and the ~~office~~ department in the administration of its programs, all in
29 accordance with the Administrative Procedure Act. The rules adopted by the board

1 for the Office of Elderly Affairs in effect on the effective date of this Paragraph shall
2 remain in effect and shall be applicable to the board and the Department of Elderly
3 Affairs and such rules shall remain in effect subject to their own provisions until
4 changed as provided in this Paragraph.

5 C. The board by rule or its order may delegate any portion of its rights,
6 powers, and duties to the ~~executive director~~ secretary of the department.

7 §935. Power of review of proposals of state agencies

8 A. Any state agency or department proposing to establish, modify, or expand
9 programs or services for the elderly of the state shall consult with the ~~director of the~~
10 ~~office~~ secretary of the department, who shall consult and coordinate a response with
11 the parish voluntary councils on the aging as appropriate.

12 B. The ~~office~~ department shall review and report upon all such proposals
13 submitted to it and shall comment as to the following:

14 * * *

15 C. All state agencies administering programs or implementing policies which
16 affect the health or well being of the elderly shall cooperate with the ~~office~~
17 department in carrying out these responsibilities.

18 §936. Statement of intent

19 A. It is the intention of the legislature that, insofar as is practical and
20 consistent with the efficient administration of state government, programs and
21 services for the elderly population of Louisiana, with the exception of any programs
22 administered by the Department of Children and Family Services or the Department
23 of Health and Hospitals on August 15, 1995, shall eventually be consolidated within
24 the ~~Office~~ Department of Elderly Affairs, to be administered at the local level by the
25 sixty-four parish voluntary councils on aging.

26 B. It is further the intention of the legislature that the ~~Office~~ Department of
27 Elderly Affairs administer all federal funds appropriated, allocated, or otherwise
28 made available to the state for services to the elderly, whether by block grant or in
29 any other form, with the exception of funds for programs administered by the

1 Department of Children and Family Services or the Department of Health and
2 Hospitals on August 15, 1995. The ~~Office~~ Department of Elderly Affairs shall
3 distribute such funds in accordance with appropriate state and federal requirements
4 and consistent with this Section.

5 §937. Frail elderly program; administration

6 A. The ~~office of elderly affairs~~ Department of Elderly Affairs shall create the
7 frail elderly program which shall provide home and community services to persons
8 sixty years of age or older who have some degree of functional impairment in areas
9 serviced by a participating voluntary council on aging. Such impairment shall be
10 determined by the comprehensive assessment conducted in accordance with rules
11 and regulations promulgated by the ~~office~~ department.

12 B. In areas serviced by a voluntary council on aging which agrees to
13 participate, the program shall be administered by the council, subject to the rules and
14 regulations promulgated by the ~~office~~ department.

15 §937.1. Eligibility; services provided

16 A. Eligibility for ~~this~~ the frail elderly program shall be initially determined
17 on the basis of the comprehensive assessment required by R.S. 46:937. No person
18 shall receive services under this program without such services being authorized on
19 the basis of the comprehensive assessment results.

20 B.(1) Services to be provided under ~~this~~ the frail elderly program shall be
21 limited to those services provided in the person's home or those services intended to
22 maintain the person's ability to live at home. These shall include but need not be
23 limited to the social, nutrition, and support services currently provided by the
24 councils on aging, such as home-delivered meals, respite care, homemaker services,
25 and chore assistance.

26 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (3) All other services provided through ~~this~~ the frail elderly program shall
2 be subject to any applicable state licensing laws and to such service standards as may
3 be promulgated by the ~~office~~ department.

4 * * *

5 §937.2. Funding

6 Funding for ~~this~~ the frail elderly program shall be provided by:

7 (1) That portion of appropriations from the state general fund to the parish
8 voluntary councils on aging not needed to match the federal Older American Act or
9 other matching fund programs. In January of each year, the ~~office~~ department shall
10 certify to the legislature and to the councils on aging the amount of funds available
11 under this program.

12 (2) Persons eligible for the program shall be assessed an appropriate fee on
13 a sliding scale based upon the person's ability to pay. The fee scale shall be
14 established by the ~~office~~ department by regulation and shall provide a minimum
15 income level below which no fee shall be assessed. Fees collected pursuant to this
16 program shall be maintained separate from other funds and shall be used only for the
17 purposes of increasing the provision of any of the services allowed under this
18 program to eligible persons.

19 §937.3. Duties of the ~~office~~ department; reimbursement

20 A. The ~~office~~ department shall adopt rules and regulations necessary to
21 administer ~~this~~ the frail elderly program in accordance with the Administrative
22 Procedure Act. Such rules and regulations shall be promulgated in order to allow for
23 the program to begin operation no later than July, 1993.

24 B. The ~~office~~ department shall establish reimbursement rates for each service
25 provided under this program.

26 C. The ~~office~~ department shall report annually to the legislature on the
27 implementation of the program. The first report shall be delivered to the legislature
28 no later than thirty days prior to the 1994 Regular Session and shall include the

1 office's assessment of the feasibility of the program and any recommendations as to
2 whether the program should be continued, expanded, or discontinued.

3 §938. Volunteer service credit program; creation

4 A. The ~~office of elderly affairs~~ Department of Elderly Affairs shall establish
5 a computer-based volunteer service credit program under which persons may
6 volunteer their services to provide respite care, homemaker care, home repair, and
7 maintenance services as provided by R.S. 46:937.1(B) and (C), or related services
8 to persons sixty years of age or older who are determined by the ~~office~~ department
9 to need such care. Volunteer participants in this program shall receive credit for
10 providing the volunteer services, which credit may then be drawn upon when
11 volunteers or their spouses are determined by the ~~office~~ department to need services
12 included in the volunteer service credit program.

13 B. The ~~office~~ department shall establish a computer-based volunteer skills
14 bank which shall include a registry of names, skills, and interests of persons earning
15 service credits, an accounting system necessary to track service credits earned by
16 each volunteer, and the capacity to provide each volunteer with monthly balances of
17 credits earned and credits expended.

18 C. To the extent possible, the ~~office~~ department shall recruit and train a
19 sufficient number of volunteers to assure the availability of volunteers to meet the
20 needs of persons who have service credits and who need to draw on their accounts.
21 The ~~office~~ department shall also develop a contingency plan for using the staff and
22 programs of the ~~office~~ department to ensure that services are available in return for
23 credit in the event no appropriate volunteer is available. The contingency plan shall
24 be incorporated into rules adopted pursuant to the provisions of this Section.

25 D. The ~~office~~ department shall adopt rules necessary to administer the
26 program, which shall include standards to screen and train participants and to limit
27 the number of hours of credit which may be accumulated by each volunteer.

28 E. The ~~office~~ department shall coordinate this program with the parish
29 councils on aging and other existing volunteer programs where feasible.

1 F. The ~~office~~ department shall report annually to the legislature on the
 2 implementation of the program. The report shall include the number of volunteer
 3 participants, the number of credited hours of service, all costs associated with the
 4 program, any recommendations for program modifications, and any other
 5 information relevant to program effectiveness. The first annual report shall be
 6 delivered to the legislature no later than thirty days prior to the 1988 Regular Session
 7 and shall include the office's assessment of the feasibility of the program and any
 8 recommendations as to whether the program should be continued, expanded, or
 9 discontinued.

10 * * *

11 §2351. Creation; membership; terms; compensation

12 * * *

13 E. Upon request of the commission, the directors of the following agencies,
 14 and the secretary in the case of the Department of Elderly Affairs, shall make
 15 themselves available for consultation and shall provide information regarding the
 16 services available to the deaf through their respective agencies:

17 * * *

18 Section 6. R.S. 36:4(B)(6) is hereby repealed in its entirety.

19 Section 7. The Louisiana State Law Institute is hereby authorized and directed to
 20 change references as follows:

21 (A) Change "office of elderly affairs" to "Department of Elderly Affairs" in the
 22 following provisions: R.S. 40:2010.1(5) and 2010.2, R.S. 46:1602(A) and (C), 1606(A),
 23 (D)(2), and (E), 1608(A), and 2351(E)(4).

24 (B) Change "Governor's Office of Elderly Affairs" to "Department of Elderly
 25 Affairs" in the following provisions: R.S. 14:35.1(A)(3) and R.S. 46:2136.2(F).

26 (C) Change "office of elderly affairs in the office of the governor" to "Department
 27 of Elderly Affairs" in the following provisions: R.S. 15:1503(4)(a), R.S. 17:3932(A)(2), and
 28 R.S. 40:2010.1(1).

1 (D) Change "Office of Elderly Affairs within the governor's office" to "Department
2 of Elderly Affairs" in the following provisions: R.S. 40:1300.212(3) and 1300.213(A) and
3 (B).

4 (E) Change "governor's office of elderly affairs" to "Department of Elderly Affairs"
5 in R.S. 40:2009.25(F)(10).

6 (F) Change "office of elderly affairs that is an organizational part of the governor's
7 office, and" to "Department of Elderly Affairs, which" in R.S. 47:120.26(A)(1).

8 (G) Change "office of elderly affairs of the governor's office" to "Department of
9 Elderly Affairs" in R.S. 47:305.66(B).

10 (H) Change "Office of Elderly Affairs" to "Department of Elderly Affairs" in R.S.
11 46:56(A), (B)(1), and (F)(4)(b), 61(A)(1) and (C), 1608(E), 2673(A)(1), and 2674(A)(2)(a).

12 (I) Change "office" to "department" in R.S. 46:1608(A) and (C).

13 (J) Change "executive director" or "executive director of the office" or "executive
14 director of the office of elderly affairs" or "executive director of the Office of Elderly
15 Affairs" or "executive director of the Governor's Office of Elderly Affairs" to "secretary of
16 the Department of Elderly Affairs" in R.S. 17:2048.61(D)(21), R.S. 23:2043(A)(9), and R.S.
17 46:1606(A), (B)(1) and (2), (C), and (D)(3), 1608(A), and 2911(B)(8).

18 (K) Change "executive director of the office" or "executive director" to "secretary
19 of the department" in R.S. 46:1608(B), (C), and (F).

20 (L) Change ""OEA"" to ""DEA"" in R.S. 47:120.26(A)(1) and change "OEA" to
21 "DEA" in R.S. 47:120.26(C), (D), and (E).

22 Section 8. Notwithstanding any provision of law to the contrary, any funds
23 appropriated or allocated for any purpose, function, or program that is under the purview,
24 jurisdiction, or authority of the Office of Elderly Affairs or its successor, the Department of
25 Elderly Affairs, by virtue of statutory enactment in the Louisiana Revised Statutes of 1950
26 shall be appropriated or allocated only to, and available for use only by, the Office of Elderly
27 Affairs or its successor, the Department of Elderly Affairs, and such funds shall not be
28 appropriated, allocated, or transferred to any other state department, agency, office, or
29 program. For purposes of this Section, the provisions of Title 36 of the Louisiana Revised

1 Statutes of 1950, Organization of the Executive Branch of State Government, the provisions
2 of Chapter 7 of Title 46 of the Louisiana Revised Statutes of 1950, and the provisions of the
3 Adult Protective Services Act, R.S. 15:1501 et seq., shall supersede any other provision of
4 law concerning assignment or allocation of purposes, functions, and programs to
5 departments, agencies, and offices of the executive branch and shall also supersede the
6 provisions of any appropriation or allocation made in contravention of this Section.
7 Appropriations and allocations of funds for the purposes of programs affecting the elderly
8 and persons age sixty and over shall be made to departments, agencies, and offices in
9 accordance with the assignment of purposes, programs, and functions by the provisions of
10 Title 36 of the Louisiana Revised Statutes of 1950, Organization of the Executive Branch
11 of State Government, the provisions of Chapter 7 of Title 46 of the Louisiana Revised
12 Statutes of 1950, and the provisions of the Adult Protective Services Act, R.S. 15:1501 et
13 seq. Any appropriation or allocation of funds for any purpose, function, or program that is
14 assigned to the Office of Elderly Affairs, or its successor, the Department of Elderly Affairs,
15 shall be deemed to have been made to the Office of Elderly Affairs, or its successor, the
16 Department of Elderly Affairs regardless of the entity to which such appropriation or
17 allocation is made, and the state treasurer shall redirect funds appropriated or allocated to
18 any other department, agency, office, or entity in contravention of this Section to the Office
19 of Elderly Affairs, or its successor, the Department of Elderly Affairs.

20 Section 9.(A) This Section and Section 8 of this Act shall become effective on July
21 1, 2013; if this Act is vetoed by the governor and subsequently approved by the legislature,
22 this Section and Section 8 of this Act shall become effective on July 1, 2013, or on the day
23 following such approval by the legislature, whichever is later.

24 (B) Sections 1 through 7 of this Act shall become effective upon the effective date
25 of the abolition of one or more of the twenty departments in the executive branch of state
26 government or upon the effective date of a constitutional amendment that authorizes creation
27 of an executive branch department in addition to the twenty departments authorized by
28 Constitution Article IV, Section 1(B), whichever such effective date is earlier.

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. 352

Abstract: Abolishes the Office of Elderly Affairs and creates the Dept. of Elderly Affairs as its successor and provides that funding for purposes, functions, and programs of the office and the department be appropriated or allocated only to the office or the department. Creation of the department will become effective with the abolition of an existing department or a constitutional amendment authorizing an additional department.

Present law creates the Office of Elderly Affairs as a state agency in the office of the governor. Provides that the office is administered by an executive director, who is recommended for appointment by the La. Executive Board on Aging and appointed by the governor, to serve at his pleasure, subject to Senate confirmation.

Present law provides for the powers and duties of the office, including among others administration of the Older Americans Act and related programs; collecting information and making studies of conditions pertaining to employment, health, financial status, recreation, social adjustment, or other conditions affecting the welfare of the aged; making recommendations to the governor and to the legislature for needed improvements and additional resources to promote the welfare of the aging; coordinating the services of all state agencies serving the elderly and requiring reports from state agencies and institutions; promulgating rules and regulations necessary to implement provisions for the office and its functions; administration of all federal funds appropriated, allocated, or otherwise made available to the state for services to the elderly, except funds for programs administered by other state departments or agencies; exercising functions relative to nutrition programs for the elderly and handicapped citizens of La., homemaker services, home repair and maintenance services, employment and training services, recreational and transportation services, counseling, information and referral services, specified protective services, and health-related outreach, but excluding a specified transportation program for the elderly and the handicapped administered by the Dept. of Transportation and Development and other such programs and services assigned to other departments of state government.

Present law also provides for the office to review and report on proposals of state agencies and departments for programs and services for the elderly. Provides legislative intent to eventually consolidate programs and services for the elderly in the office except those administered by the Dept. of Health and Hospitals and the Dept. of Children and Family Services on Aug. 15, 1995, and for the office to administer all federal funds for services to the elderly except for programs administered by the Dept. of Health and Hospitals and the Dept. of Children and Family Services on Aug. 15, 1995. Provides for a frail elderly program and a volunteer service credit program in the office.

Proposed law abolishes the Office of Elderly Affairs and creates the Department of Elderly Affairs. Provides legislative intent to eventually consolidate programs and services for the elderly in the department with the same exceptions as provided in present law above. Grants the department all powers and duties of the abolished office and makes it responsible for the programs and functions of the abolished office. Transfers to the department the unfinished business, obligations, property, and employees of the abolished office. Makes the rules of the office effective for the department, until changed by the department. Provides that the office shall be responsible for state functions designed to meet the needs of residents age 60 or older and for planning, monitoring, coordination, and delivery of services to the elderly of the state, including but not limited to coordination of services of all state agencies serving

the elderly and requiring reports from them; developing a plan for efficient coordination of functions and services for the elderly and for consolidation of such functions and services within the department with local administration by the parish voluntary councils on aging; administration of the Older Americans Act and related programs; administration of all federal funds appropriated, allocated, or otherwise made available to the state for services to the elderly, except funds for programs administered by other state departments or agencies as specified by the La. Revised Statutes of 1950; exercising functions relative to nutrition programs for the elderly and handicapped citizens of La., homemaker services, home repair and maintenance services, employment and training services, recreational and transportation services, counseling, information and referral services, protective services as provided in R.S. 15:1501 et seq., and health-related outreach, but excluding the transportation program for the elderly and the handicapped administered by the Dept. of Transportation and Development under Section 16(b)(2) of the Federal Urban Mass Transportation Act of 1964 as amended and other such programs and services assigned to other departments of state government as provided in Title 36 of the La. Revised Statutes of 1950; collection of facts and statistics and making special studies of conditions pertaining to the employment, health, financial status, recreation, social adjustment, or other conditions affecting the welfare of the aged; keeping abreast of the latest developments in aging throughout the nation and interpreting such findings to the public; providing for a mutual exchange of ideas and information on national, state, and local levels; and making recommendations to the governor and to the legislature for needed improvements and additional resources to promote the welfare of the aging in the state.

Proposed law provides that the department shall be composed of the executive office of the secretary, the office of management and finance, and such other offices as shall be created by law.

Proposed law provides for a secretary of the department, to be appointed by the governor with consent of the Senate from recommendations for appointment by the La. Executive Board on Aging, who shall serve at the pleasure of the governor at a salary fixed by the governor not to exceed the amount approved for the position by the legislature in session. Provides for the powers and duties of the secretary, which are similar to the powers and duties granted to the secretaries of other executive branch departments by present law. Also grants the secretary the powers, duties, and functions of the executive director of the abolished Office of Elderly Affairs.

Proposed law authorizes but does not require a deputy secretary for the department, to be appointed by the secretary with Senate consent and to serve at the pleasure of the secretary at a salary set by the secretary not to exceed the amount approved for the position by the legislature in session.

Proposed law provides for an office of management and finance for the department with functions similar to those of the offices of management and finance of other executive branch departments as provided by present law, that is, accounting and budget control, procurement and contract management, data processing, management and program analysis, personnel management, and grants management for the department, all of its offices, and agencies transferred to the department. Provides that the undersecretary shall be responsible for the functions of the office of management and finance and that he shall be appointed by the governor to serve at his pleasure at a salary fixed by the governor not to exceed the amount approved for the position by the legislature in session.

Present law establishes the La. Executive Board on Aging in the office of the governor. Provides that the board may recommend discharge of the executive director of the Office of Elderly Affairs. Provides that the board shall develop and implement policies and procedures pertaining to the office of elderly affairs and its functions, shall approve matters of policy and all rules and regulations promulgated by the board or the office which pertain to elderly affairs and voluntary parish councils on aging, shall review and make recommendations to the director on matters of general importance and relevance to the

planning, monitoring, coordination, and delivery of services to the elderly of the state, and shall prepare and submit an annual report to the legislature and to the governor sixty days prior to the legislative session. Provides that the board shall adopt rules governing the functions of the office, including rules that prescribe the policies and procedures followed by the board and the office in the administration of its programs. Provides that the board may delegate any portion of its rights, powers, and duties to the executive director.

Proposed law places the board in the department and provides that the board shall continue to exercise all of the powers, duties, functions, and responsibilities provided or authorized for it by law which are in the nature of policymaking, rulemaking, licensing, regulation, enforcement, or adjudication and also shall continue to exercise all advisory powers, duties, functions, and responsibilities provided by law. Makes the rules of the board effective for the department, until changed by the board.

Proposed law provides that the office of aging and adult services of the Dept. of Health and Hospitals shall have no responsibility or authority for any programs or functions assigned by the La. Revised Statutes of 1950 to the Dept. of Elderly Affairs.

Proposed law changes references in present law from the office to the department and directs the La. State Law Institute to change other similar references.

Proposed law provides that, notwithstanding any law to the contrary, any funds appropriated or allocated for any purpose, function, or program that is under the purview, jurisdiction, or authority of the Office of Elderly Affairs, or its successor, the Dept. of Elderly Affairs, by virtue of statutory enactment in the La. Revised Statutes of 1950 shall be appropriated or allocated only to, and available for use only by, the Office of Elderly Affairs or its successor, the Dept. of Elderly Affairs, and shall not be appropriated, allocated, or transferred to any other state department, agency, office, or program. Provides that Title 36 of the La. Revised Statutes of 1950 (Organization of the Executive Branch of State Government), Chapter 7 of Title 46 of the La. Revised Statutes of 1950 (elderly affairs), and the Adult Protective Services Act (R.S. 15:1501 et seq.) shall supersede any other provision of law concerning assignment or allocation of purposes, functions, and programs to departments, agencies, and offices of the executive branch and shall also supersede the provisions of any appropriation or allocation made in contravention of this Section of proposed law. Requires that appropriations and allocations of funds for the purposes of programs affecting the elderly and persons age sixty and over shall be made to departments, agencies, and offices in accordance with the assignment of purposes, programs, and functions by the provisions of Title 36, Title 46, and Title 15 cited above. Provides that any appropriation or allocation of funds for any purpose, function, or program that is assigned to the Office of Elderly Affairs, or its successor, the Department of Elderly Affairs, shall be deemed to have been made to the Office of Elderly Affairs, or its successor, the Department 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 in contravention of this Section to the Office of Elderly Affairs, or its successor, the Dept. of Elderly Affairs.

Effective upon the effective date of the abolition of one or more of the 20 departments in the executive branch of state government or upon the effective date of a constitutional amendment that authorizes creation of an additional executive branch department, whichever such effective date is earlier; except provisions requiring appropriation and allocation of funding of elderly affairs purposes, functions, and programs in accordance with the assignment thereof by the La. Revised Statutes of 1950 is effective July 1, 2013.

(Amends R.S. 23:73(E)(2), R.S. 35:406(A)(1) and (D), R.S. 36:258(F), R.S. 39:33(A)(2), R.S. 46:931, 932(intro. para.) and (14), 933(A), (D), and (G), 934, 935(A), (B)(intro. para.), and (C), 936, 937, 937.1(A) and (B)(1) and (3), 937.2, 937.3, 938, and 2351(E)(intro. para.); Adds R.S. 36:4(A)(15) and 151-157; Repeals R.S. 36:4(B)(6))