

2021 Regular Session

HOUSE BILL NO. 412

BY REPRESENTATIVE LACOMBE

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

CIVIL SERVICE/FIRE & POL: Provides relative to the reemployment of employees who have resigned or retired from the classified service due to injury or medical condition

1 AN ACT

2 To amend and reenact R.S. 33:2490(E) and (F) and 2550(E) and (F), relative to the  
3 municipal fire and police civil service; to provide relative to employees who have  
4 resigned or retired from the classified service due to injury or medical condition; to  
5 provide relative to the position and class to which employees may be reemployed;  
6 to provide relative to the qualifications, compensation, and seniority of any such  
7 employee; to provide limitations; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 33:2490(E) and (F) and 2550(E) and (F) are hereby amended and  
10 reenacted to read as follows:

11 §2490. Reinstatement and reemployment

12 \* \* \*

13 E.(1) ~~Any regular employee who resigns or retires from a position in the~~  
14 ~~classified service may, with the prior approval of the board, be reemployed in a~~  
15 ~~position of the class in which he was employed immediately preceding his~~  
16 ~~resignation or retirement or in a position in any lower class. Any such employee~~  
17 ~~may be reemployed at any time after his resignation or retirement, but he shall be~~  
18 ~~qualified for the position to which he is reemployed. In addition, the employee shall~~  
19 ~~be reemployed with the departmental and promotional seniority accumulated through~~  
20 ~~the date of reinstatement; however, a regular employee shall be reemployed as~~

1       ~~provided in this Subsection only if his resignation or retirement occurred as a result~~  
2       ~~of the employee being unable to perform the essential functions of his job upon~~  
3       ~~sustaining any injury that is compensable pursuant to the provisions of Chapter 10~~  
4       ~~of Title 23 of the Louisiana Revised Statutes of 1950. Subject to the requirements~~  
5       ~~of this Subsection, any regular employee who resigns or retires as specified in~~  
6       ~~Paragraph (3) of this Subsection from a position in the classified service and who~~  
7       ~~applies for reemployment shall be reemployed in a position of the class in which he~~  
8       ~~was employed immediately preceding his resignation or retirement. However, if~~  
9       ~~there are no available positions in his former class, he may be temporarily placed in~~  
10       ~~a position in any lower class. If the employee is temporarily placed in a position in~~  
11       ~~a lower class, he shall receive the same rate of pay, including longevity pay, that he~~  
12       ~~would have otherwise received for the position in which he was to be reemployed in~~  
13       ~~his former class. In addition, during his temporary placement, he shall be placed first~~  
14       ~~on the eligibility list for a position in his former class and shall not be required to~~  
15       ~~retest for any such position. The employee shall remain first on such list until he is~~  
16       ~~appointed to a position in his former class.~~

17               (2)(a) ~~Prior to reemployment, an employee shall give notice to the appointing~~  
18       ~~authority that the employee is able to return to work. An authorization from the~~  
19       ~~employee's treating physician certifying that the employee is able to perform the~~  
20       ~~essential functions of the position that were required at the time he was originally~~  
21       ~~confirmed in such position shall be included with the employee's notice to the~~  
22       ~~appointing authority. Upon furnishing such notice and certification to the appointing~~  
23       ~~authority, the employee shall be deemed qualified for the position. The board shall~~  
24       ~~approve the reemployment of the employee and the appointing authority shall~~  
25       ~~reemploy such employee. The employee shall be considered a permanent employee~~  
26       ~~and shall not be required to serve a working test. In addition, the employee shall be~~  
27       ~~reemployed with the departmental and promotional seniority the employee accrued~~  
28       ~~during his employment including any such seniority that he would have accumulated~~

1 from the date of his separation through the date of reinstatement as if he remained  
2 in continuous service.

3 (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,  
4 if the appointing authority has a specific cause to dispute the certification of the  
5 employee's treating physician, the appointing authority may have the employee  
6 evaluated by another physician for the limited purpose of confirming that the injury  
7 or medical condition that resulted in his resignation or retirement no longer prevents  
8 him from performing the essential functions of the position. If there is a  
9 disagreement between the employee's treating physician and the physician selected  
10 by the appointing authority, the two physicians shall select a third physician whose  
11 opinion shall be determinative.

12 (3) The reemployment provided for in this Subsection applies only if a  
13 resignation or retirement occurred as a result of the employee's being unable to  
14 perform the essential functions of his job after sustaining an injury or developing a  
15 medical condition during the course and scope of his employment as determined by  
16 the employee's treating physician. In addition, the reemployment provided for in this  
17 Subsection is available at any time after the resignation or retirement of the  
18 employee.

19 ~~F.(1) Any regular employee who retires from a position in the classified fire~~  
20 ~~service as a result of an injury or a medical condition which prevents him from~~  
21 ~~performing the essential functions of his job, may, with the prior approval of the~~  
22 ~~board, be reemployed in a position of the class in which he was employed~~  
23 ~~immediately preceding his retirement or in a position in any lower class. Any such~~  
24 ~~employee may be reemployed at any time after his retirement, but he shall be~~  
25 ~~qualified for the position to which he is reemployed and be able to perform the~~  
26 ~~essential functions of the position. In addition, the employee shall be reemployed~~  
27 ~~with the departmental and promotional seniority accumulated through the date of~~  
28 ~~retirement. This Subsection shall not be applicable to employees whose injury or~~  
29 ~~medical condition resulted from their own negligent or intentional act. Subject to the~~

1 requirements of this Subsection, any regular employee who retires from a position  
2 in the classified fire service as a result of an injury or a medical condition which  
3 prevents him from performing the essential functions of his job and who applies for  
4 reemployment shall be reemployed in a position of the class in which he was  
5 employed immediately preceding his retirement. However, if there are no available  
6 positions in his former class, he may be temporarily placed in a position in any lower  
7 class. If the employee is temporarily placed in a position in a lower class, he shall  
8 receive the same rate of pay, including longevity pay, that he would have otherwise  
9 received for the position in which he was to be reemployed in his former class. In  
10 addition, during his temporary placement, he shall be placed first on the eligibility  
11 list for a position in his former class and shall not be required to retest for any such  
12 position. The employee shall remain first on such list until he is appointed to a  
13 position in his former class.

14 (2)(a) Prior to reemployment, an employee shall give notice to the  
15 appointing authority that the employee is able to return to work. An authorization  
16 from the employee's treating physician certifying that the employee is able to  
17 perform the essential functions of the position that were required at the time he was  
18 originally confirmed in such position shall be included with the employee's notice  
19 to the appointing authority. Upon furnishing such notice and certification to the  
20 appointing authority, the employee shall be deemed qualified for the position. The  
21 board shall approve the reemployment of the employee and the appointing authority  
22 shall reemploy such employee. The employee shall be considered a permanent  
23 employee and shall not be required to serve a working test. In addition, the  
24 employee shall be reemployed with the departmental and promotional seniority the  
25 employee had accrued as of the date of his retirement.

26 (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,  
27 if the appointing authority has a specific cause to dispute the certification of the  
28 employee's treating physician, the appointing authority may have the employee  
29 evaluated by another physician for the limited purpose of confirming that the injury

1 or medical condition that resulted in his retirement no longer prevents him from  
2 performing the essential functions of the position. If there is a disagreement between  
3 the employee's treating physician and the physician selected by the appointing  
4 authority, the two physicians shall select a third physician whose opinion shall be  
5 determinative.

6 (3) The reemployment provided for in this Subsection is available at any  
7 time after the retirement of the employee.

8 \* \* \*

9 §2550. Reinstatement and reemployment

10 \* \* \*

11 ~~E.(1) Any regular employee who resigns or retires from a position in the~~  
12 ~~classified service may, with the prior approval of the board, be reemployed in a~~  
13 ~~position of the class in which he was employed immediately preceding his~~  
14 ~~resignation or retirement or in a position in any lower class. Any such employee~~  
15 ~~may be reemployed at any time after his resignation or retirement, but he shall be~~  
16 ~~qualified for the position to which he is reemployed. In addition, the employee shall~~  
17 ~~be reemployed with the departmental and promotional seniority accumulated through~~  
18 ~~the date of reinstatement; however, a regular employee shall be reemployed as~~  
19 ~~provided in this Subsection only if his resignation or retirement occurred as a result~~  
20 ~~of the employee being unable to perform the essential functions of his job upon~~  
21 ~~sustaining any injury that is compensable pursuant to the provisions of Chapter 10~~  
22 ~~of Title 23 of the Louisiana Revised Statutes of 1950. Subject to the requirements~~  
23 ~~of this Subsection, any regular employee who resigns or retires as specified in~~  
24 ~~Paragraph (3) of this Subsection from a position in the classified service and who~~  
25 ~~applies for reemployment shall be reemployed in a position of the class in which he~~  
26 ~~was employed immediately preceding his resignation or retirement. However, if~~  
27 ~~there are no available positions in his former class, he may be temporarily placed in~~  
28 ~~a position in any lower class. If the employee is temporarily placed in a position in~~  
29 ~~a lower class, he shall receive the same rate of pay, including longevity pay, that he~~

1 would have otherwise received for the position in which he was to be reemployed in  
2 his former class. In addition, during his temporary placement, he shall be placed first  
3 on the eligibility list for a position in his former class and shall not be required to  
4 retest for any such position. The employee shall remain first on such list until he is  
5 appointed to a position in his former class.

6 (2)(a) Prior to reemployment, an employee shall give notice to the  
7 appointing authority that the employee is able to return to work. An authorization  
8 from the employee's treating physician certifying that the employee is able to  
9 perform the essential functions of the position that were required at the time he was  
10 originally confirmed in such position shall be included with the employee's notice  
11 to the appointing authority. Upon furnishing such notice and certification to the  
12 appointing authority, the employee shall be deemed qualified for the position. The  
13 board shall approve the reemployment of the employee and the appointing authority  
14 shall reemploy such employee. The employee shall be considered a permanent  
15 employee and shall not be required to serve a working test. In addition, the  
16 employee shall be reemployed with the departmental and promotional seniority the  
17 employee accrued during his employment including any such seniority that he would  
18 have accumulated from the date of his separation through the date of reinstatement  
19 as if he remained in continuous service.

20 (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,  
21 if the appointing authority has a specific cause to dispute the certification of the  
22 employee's treating physician, the appointing authority may have the employee  
23 evaluated by another physician for the limited purpose of confirming that the injury  
24 or medical condition that resulted in his resignation or retirement no longer prevents  
25 him from performing the essential functions of the position. If there is a  
26 disagreement between the employee's treating physician and the physician selected  
27 by the appointing authority, the two physicians shall select a third physician whose  
28 opinion shall be determinative.

1           (3) The reemployment provided for in this Subsection applies only if a  
2           resignation or retirement occurred as a result of the employee's being unable to  
3           perform the essential functions of his job after sustaining an injury or developing a  
4           medical condition during the course and scope of his employment as determined by  
5           the employee's treating physician. In addition, the reemployment provided for in this  
6           Subsection is available at any time after the resignation or retirement of the  
7           employee.

8           ~~F.(1) Any regular employee who retires from a position in the classified fire~~  
9           ~~service as a result of an injury or a medical condition which prevents him from~~  
10           ~~performing the essential functions of his job, may, with the prior approval of the~~  
11           ~~board, be reemployed in a position of the class in which he was employed~~  
12           ~~immediately preceding his retirement or in a position in any lower class. Any such~~  
13           ~~employee may be reemployed at any time after his retirement, but he shall be~~  
14           ~~qualified for the position to which he is reemployed and be able to perform the~~  
15           ~~essential functions of the position. In addition, the employee shall be reemployed~~  
16           ~~with the departmental and promotional seniority accumulated through the date of~~  
17           ~~retirement. This Subsection shall not be applicable to employees whose injury or~~  
18           ~~medical condition resulted from their own negligent or intentional act. Subject to the~~  
19           ~~requirements of this Subsection, any regular employee who retires from a position~~  
20           ~~in the classified fire service as a result of an injury or a medical condition which~~  
21           ~~prevents him from performing the essential functions of his job and who applies for~~  
22           ~~reemployment shall be reemployed in a position of the class in which he was~~  
23           ~~employed immediately preceding his retirement. However, if there are no available~~  
24           ~~positions in his former class, he may be temporarily placed in a position in any lower~~  
25           ~~class. If the employee is temporarily placed in a position in a lower class, he shall~~  
26           ~~receive the same rate of pay, including longevity pay, that he would have otherwise~~  
27           ~~received for the position in which he was to be reemployed in his former class. In~~  
28           ~~addition, during his temporary placement, he shall be placed first on the eligibility~~  
29           ~~list for a position in his former class and shall not be required to retest for any such~~

1 position. The employee shall remain first on such list until he is appointed to a  
2 position in his former class.

3 (2)(a) Prior to reemployment, an employee shall give notice to the  
4 appointing authority that the employee is able to return to work. An authorization  
5 from the employee's treating physician certifying that the employee is able to  
6 perform the essential functions of the position that were required at the time he was  
7 originally confirmed in such position shall be included with the employee's notice  
8 to the appointing authority. Upon furnishing such notice and certification to the  
9 appointing authority, the employee shall be deemed qualified for the position. The  
10 board shall approve the reemployment of the employee and the appointing authority  
11 shall reemploy such employee. The employee shall be considered a permanent  
12 employee and shall not be required to serve a working test. In addition, the  
13 employee shall be reemployed with the departmental and promotional seniority the  
14 employee had accrued as of the date of his retirement.

15 (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,  
16 if the appointing authority has a specific cause to dispute the certification of the  
17 employee's treating physician, the appointing authority may have the employee  
18 evaluated by another physician for the limited purpose of confirming that the injury  
19 or medical condition that resulted in his retirement no longer prevents him from  
20 performing the essential functions of the position. If there is a disagreement between  
21 the employee's treating physician and the physician selected by the appointing  
22 authority, the two physicians shall select a third physician whose opinion shall be  
23 determinative.

24 (3) The reemployment provided for in this Subsection is available at any  
25 time after the retirement of the employee.

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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)]

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HB 412 Reengrossed

2021 Regular Session

LaCombe

**Abstract:** Requires, rather than authorizes, the appointing authority to reemploy an employee who has resigned or retired from the classified fire or police service due to injury or medical condition if the employee meets certain conditions.

Present constitution creates a fire and police civil service system applicable to municipalities of over 13,000 in population and parishes and fire protection districts. Provides that the system is subject to Art. XIV, §15.1 of the 1921 constitution made statutory by the 1974 constitution.

Present law creates and provides for two fire and police civil service systems: (1) one applicable to any municipality which operates paid police and fire departments and which has a population of not fewer than 13,000 persons; and (2) one applicable to any parish, fire protection district, or municipality with a population of fewer than 13,000, but not fewer than 7,000 persons.

Proposed law retains present law.

Present law, relative to both systems, provides that a municipal fire and police civil service board is created in each municipality, parish, and fire protection district composed of five members. Present law further provides that the classified service shall be comprised of every position, except those in the unclassified service to which the right of employee selection, appointment, supervision, and discharge is vested in the municipal, parish, or fire protection government. Provides further with respect to which positions are in the classified and unclassified service and provides with respect to classification plans, allocation of positions, employment lists, and tests.

Proposed law retains present law.

Present law relative to any regular employee who resigns or retires from a position in the classified service due to a medical condition or injury, authorizes the appointing authority, if approved by the board, to reemploy any such employee in a position of the class in which he was employed immediately preceding his resignation or retirement or in a position in any lower class. Requires that the employee be qualified for the position to which he is reemployed.

Proposed law instead requires the board to approve the reemployment of the employee and the appointing authority to reemploy the employee if the employee notifies the board that he is able to return to work and has submitted a certification from his treating physician that certifies that the employee is able to perform the essential functions of the position that were required at the time he was originally confirmed. Provides that upon furnishing the notice and certification to the appointing authority, the employee is deemed qualified for the position.

Proposed law provides that prior to reemployment, the appointing authority may have the employee evaluated by another physician. Provides that the evaluation is for the limited purpose of confirming that the injury or medical condition that resulted in his resignation or retirement no longer prevents him from performing the essential functions of the position. Further provides that if the two physicians disagree, those two are required to select a third physician whose opinion will be determinative.

Proposed law requires the appointing authority to reemploy the employee in a position of the class in which he was employed immediately preceding his resignation or retirement. Provides, however, that if no positions are available, the employee may be temporarily employed in a position in any lower class. Requires that the employee receive the same pay during his temporary placement that he would have received if he had been placed in a position in his former class. Requires that the employee be placed first on the eligibility list for a position in his former class and requires that he remain on the list until he is reemployed in his former class. Provides that the employee cannot be required to retest for a position in his former class or required to serve a working test upon reemployment.

Present law, relative to any regular employee who retires from a position in the classified fire service due to a medical condition or injury, requires that the employee be reemployed with the seniority accumulated through the date of retirement. Present law provides that an employee may be reemployed at any time after his resignation or retirement.

Proposed law retains present law.

Present law, relative to any regular employee who resigns or retires from a position in the classified service upon sustaining an injury that is compensable under present law (worker's compensation), requires that the employee be reemployed with the seniority accumulated through the date of reinstatement.

Proposed law removes present law and instead requires that a regular employee who resigns or retires from a position in the classified service upon sustaining an injury or developing a medical condition during the course and scope of his employment be reemployed with the seniority accumulated through the date of reinstatement.

(Amends R.S. 33:2490(E) and (F) and 2550(E) and (F))

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Make proposed law, relative to a regular employee who resigns or retires from the classified service upon sustaining an injury during the course and scope of his employment, also applicable to an employee who resigns or retires due to a medical condition that he developed during the course and scope of his employment.
2. Authorize the appointing authority to have an employee evaluated by a physician for the purpose of confirming that a medical condition that resulted in his resignation or retirement no longer prevents him from performing the essential functions of the position.